Founded in Houston, Texas, by neighborhood artist and educator, Birgit Walker, the goal of the Children’s Prison Arts Project (CPAP) is to prevent juvenile violence and delinquency. The organization provides year-round visual and theatrical arts programs to male and female juvenile offenders incarcerated in Harris County Juvenile Probation Department facilities. Over 22,000 youth have participated in Children’s Prison Arts Project’s 17 years of existence. CPAP’s mission is to expose incarcerated youth in correctional facilities to an innovative, educational, creative writing, theater and visual art forum where they can express their thoughts and visions in constructive ways, and present their art to their peers and to the community at large.
The State of Juvenile Justice in Texas:
A Roadmap to Improved Outcomes in the Texas Juvenile Justice Department, Adult Certification, and Mental Health

Prepared by CHILDREN AT RISK with the generous support from the Texas Bar Foundation

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CHILDREN AT RISK is a non-partisan research and advocacy organization dedicated to improving the quality of life for Texas’ children through strategic research, public policy analysis, innovation, legal action, community education, and collaboration. The organization began in fall of 1989 when a group of child advocates met to discuss the lack of data on the status of children and the absence of strong public policy for support for Houston’s children. Through its biennial publication, Growing Up in Houston: Assessing the Quality of Life of Our Children, CHILDREN AT RISK tracks over 140 indicators measuring the quality of life of Texas’ children.

CHILDREN AT RISK has evolved from an organization researching the multitude of obstacles our children face, to one that also drives macro-level change to better the future of Texas’ children. Through its Public Policy & Law Center – established in 2006 as the only center of its kind in Texas – CHILDREN AT RISK uses policy and legal expertise as a powerful tool to drive change and create a better future for our children. In recent years, CHILDREN AT RISK has grown exponentially in its capacity to speak out and drive change for children and has become the premier resource on children’s issues among major media outlets, public officials, and the non-profit sector.

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FOREWORD BY DR. OCTAVIO MARTINEZ, EXECUTIVE DIRECTOR, HOGG FOUNDATION FOR MENTAL HEALTH

For too many young people in the great State of Texas, their childhood intersects with the juvenile justice system. The issues and factors are many; and that is why I thank CHILDREN AT RISK for preparing this important report, *The State of Juvenile Justice in Texas: A Roadmap to Improved Outcomes in the Texas Juvenile Justice Department, Adult Certification, and Mental Health*. This publication is a tool that highlights important components and provides information for our legislators, policymakers, governmental and non-profit stakeholders, and communities to use in further improving the juvenile justice system. Much work has been done to improve the Texas juvenile justice system in recent years, and the recent passage of SB 653 by the 82nd Texas Legislature to consolidate the Texas Youth Commission and the Texas Juvenile Probation Commission to create the Texas Juvenile Justice Department should be commended. Of special importance is this legislation’s emphasis on the use of community-based alternatives; a much more humanistic and cost-effective approach.

Given the social determinants that our children face, the ongoing evaluation and improvement of the Texas juvenile justice system is of paramount importance. Texas leads the nation in uninsured children and we have one of the largest children’s populations living in poverty. This has only been exacerbated by the recent economic downturn. Additional factors to pervasive poverty and inadequate health and mental health care that impact our children include gaps in early development, disparate educational opportunities, neglect, and chronic sexual, physical and emotional abuse. A comprehensive approach that addresses the needs of communities, families and the whole child is needed. Preventing mental, emotional, and behavioral (MEB) disorders and providing adequate ongoing resources for existing disorders is key. In general, one in five young people deal with a MEB disorder at any given time; and multiple reports indicate that more than fifty to seventy percent of young people in the Texas juvenile justice system have at least one MEB disorder. Even more disturbing is that too often the juvenile justice system is the first place that a youth is evaluated and diagnosed with a MEB disorder.

This is partly a reflection of our inadequate outpatient mental health resources; an area we should not ignore nor underfund. The philosophy of the Texas juvenile justice system since its inception has been rehabilitation. And one of the goals of the new Texas Juvenile Justice Department is to develop a system of comprehensive services that prioritize community- and family-based programs. This is the right approach, but requires access to community-based mental health services to ensure success. This means an investment in those services that interface with the Texas juvenile
justice system. This will save millions of dollars by preventing or mitigating disorders that require expensive treatment; and enhance the ability of our children to establish healthy interpersonal relationships, succeed in school, and transition to the workforce. The ultimate goal would be to make the juvenile justice system obsolete because Texas has created an ethical, humane system that addresses disproportionality and the underlying risk factors affecting our youth and their families in a culturally and linguistically respective manner. But until that day, let us not forget the errors of the past, the needs of the present, and the hope of a brighter future we can provide for our children. The time for change is now. Let us keep the momentum going forward; and to recall the words of Frederick Douglass (1818-1895), “It is easier to build strong children than to repair broken men.”

DR. OCTAVIO MARTINEZ
EXECUTIVE DIRECTOR,
HOGG FOUNDATION FOR MENTAL HEALTH
I. INTRODUCTION
This report will provide the reader with insights into the current state of the juvenile justice system of Texas, predictions for the future following legislative changes in 2011, and policy recommendations as to how the juvenile justice system in Texas could be improved. The report is divided into three parts that will examine different aspects of the juvenile justice system in Texas: (1) the new Texas Juvenile Justice Department and the possible impacts of the merger between the Texas Youth Commission and the Texas Juvenile Probation Commission following the passage of Senate Bill 653 (Whitmire) during the 82nd Legislative Session, (2) the certification of minors into the adult criminal justice system, and (3) juvenile mental health services offered by various departments and agencies at the state and local level.

The first part of this publication will focus on the new Texas Juvenile Justice Department. Major juvenile justice reform occurred in Texas with the Legislature’s passage of Senate Bill 653 in 2011, requiring that the Texas Youth Commission and the Texas Juvenile Probation Commission be consolidated into one new agency – the Texas Juvenile Justice Department. The report will look at recent referral statistics and trends for facilities in the Texas Youth Commission. It will also look at legislative developments in the past decade relating to juvenile justice reform that have acted as precursors to the merger. Finally, the report will look at the Legislature’s goals for the merger and make some predictions as to how the juvenile justice system will be impacted in the short and long term by the establishment of this new agency.

The second part of this publication will focus on youth in the adult system. Adult certification refers to the process whereby a juvenile between the ages of fourteen and seventeen can be transferred into the adult criminal justice system and tried as an adult. Examining adult certification is important because juveniles that enter the adult system no longer receive the same rehabilitative and educational focus that exists in the juvenile system and, if given a long adult sentence, may not have an incentive to rehabilitate. This report will look at a variety of factors and statistics surrounding adult certification, including certification numbers by county, race/ethnicity of the juveniles certified, and the types of offenses committed by certified youth.

The third and final part of this publication will focus on juvenile mental health. The Texas juvenile justice system is the largest provider of mental health services to children in Texas. Children are often first diagnosed with a mental health issue only after committing an offense and entering the juvenile justice system. Various juvenile facilities throughout Texas thus often serve as default mental hospitals. The report will look at the types of mental health services offered by juvenile justice facilities throughout Texas, including services offered to juveniles who are diagnosed with both mental illness and a substance abuse problem. The report also explores some of
the services offered in other states for comparison to Texas and as possible models for future changes.¹

**II. HISTORICAL BACKGROUND OF JUVENILE JUSTICE REFORM IN TEXAS**

The first known juvenile court system, separate from the adult system, was established in Chicago in 1899.² Before the creation of this specialized court system, juveniles were treated and punished in the same manner as adults.³ The adult justice system seemed ill-equipped to provide juveniles with the specialized attention they needed before the creation of a juvenile court system.⁴

The Texas juvenile justice system predates the establishment of the national first court system. During the mid-1800s the Texas Legislature passed legislation to exempt juveniles in certain criminal situations.⁵ This was motivated in part by the notion that the juvenile justice system should be one of rehabilitation, not incarceration.⁶ The Texas Youth Commission was established as the Texas Youth Development Council with the passage of the Gilmer Aiken Act of 1949.⁷ The purpose of the Council was to coordinate and administer youth services with the goal of rehabilitating the youth.⁸ The Council went through many changes and reforms during the 1960s and 1970s.⁹ The Council shifted from an institutionalized focus toward a more community-based focus.¹⁰ However, its focus shifted back toward institutional corrections with the rise in juvenile crimes during the 1980s and 1990s.¹¹ During this time, the Texas Youth Development Council changed its name to the Texas Youth Commission (TYC).¹² The TYC adopted “zero tolerance” policies during this period and throughout the early 2000s which increased the total population of juveniles committed to TYC.¹³ After several major incidents occurred at TYC facilities, the Legislature began to make a concerted effort to reform TYC.¹⁴ This report will give a detailed overview of three key pieces of legislation that attempted to strengthen oversight and to reform the system in Texas.

**III. BACKGROUND: OVERVIEW OF THE JUVENILE POPULATION AND THE JUVENILE JUSTICE SYSTEM IN TEXAS**

Texas finished the first decade of the twenty-first century with an extraordinary period of growth. The state picked up four Congressional seats in the 2010 census and had six of the twenty-five fastest growing counties located within its borders. Texas has also seen the number of juveniles within its borders multiply, and it is currently the second youngest state in the Union following Utah. As of 2011, Texas has more than twenty-five million people, and just under seven million children.¹⁵ Notably, Texas’ Anglo population accounts for only 45.3% of the total population.¹⁶ Texas has become a “majority minority” state and will soon likely lack a clear ethnic plurality as two thirds of its children are non-Anglo minorities.¹⁷
Texas is becoming increasingly diverse, but unfortunately its young, future majority makes up a disproportionate share of the population in the juvenile justice system.

Texas differs from most states in that, in the criminal context, it considers people seventeen and older to be adults who will be tried in the adult criminal system. The Texas juvenile justice system therefore only serves juveniles who were under the age of seventeen when they committed their offense. A juvenile first encounters the juvenile justice system if they are arrested by an officer for a type of offense. Juvenile justice differs from the adult system in that a juvenile can be arrested for crimes that are considered ‘status offenses’ such as truancy or a curfew violation – these are crimes only because a juvenile has not reached the age of majority and the underlying act would not be criminal if the juvenile were an adult. Outside of status offenses, juveniles may face ‘referrals’ (the juvenile justice term for charges) for nearly the entire gamut of adult offenses.18

Once referred for an offense, a juvenile is sent to juvenile court. These courts differ from the adult system in that they are considered civil, rather than criminal courts. Appeals from dispositions, the equivalent of a sentence, will ultimately make their way to the Texas Supreme Court instead of the Court of Criminal Appeals.19

Before, during, and after adjudication, juveniles may encounter a variety of facilities in the juvenile justice system. Juvenile probation facilities in various counties house youth at a number of steps in the justice system, including some who have been recently arrested and are awaiting a visit to court. Secure state facilities house some of the juveniles who have been adjudicated delinquent of an offense. For most juveniles certified and referred to the adult system, the Youthful Offender Program at the Clemens Unit will house them until they reach the age to be allowed into the general prison population. This is just a small sample of the total number of offerings comprising the juvenile justice system. A wide variety of facilities and programs exist to serve juveniles in different ways as this report will demonstrate.
Please note that the Al Price State Juvenile Correctional Facility in Beaumont, the Crockett State School in Crockett, and the Ron Jackson State Juvenile Correctional Complex Unit II in Brownwood were closed, and the McLennan State Juvenile Correctional Facility Units I and II in Mart were consolidated into one facility as a result of the 82nd Texas Legislative Session.²⁰
TEXAS YOUTH COMMISSION AND TEXAS JUVENILE PROBATION COMMISSION OVERVIEW AND MERGER
I. TEXAS YOUTH COMMISSION OVERVIEW

This publication will explore the values, missions, realities, and future of the Texas juvenile justice system. In doing so it is necessary to properly review the Texas Youth Commission (TYC). The TYC was a staple of the Texas correctional system since its inception in 1949 as the Texas Youth Development Council. Over the decades TYC’s title changed, but its core mission stayed primarily the same: The rehabilitation, education, treatment and reintegration of delinquent youth. During its existence, TYC’s mission statement read:

The Texas Youth Commission, the state’s juvenile corrections agency, promotes public safety by operating juvenile correctional facilities and by partnering with youth, families, and communities to provide a safe and secure environment where youth in the agency’s care and custody receive individualized education, treatment, life skills and employment training and positive role models to facilitate successful community reintegration.

In recent years TYC was under increasing scrutiny. Allegations of abuse, poor management, waste, and ineffectiveness plagued the organization. These troubles, coupled with statewide budgetary concerns, culminated with the recent actions of the 82nd Texas Legislature in the abolition of TYC, its merger with the Texas Juvenile Probation Commission, and the formation of the Texas Juvenile Justice Department (TJJD). Despite the technical abolition of TYC most of its facilities and staff will remain. Before undertaking the policy analysis of the 82nd Legislature’s recent action, it is important to first understand the state of TYC prior to the 82nd Legislative Session and the juveniles to whom it provided services.

A. Texas Youth Commission Population Overview And Trends

Juveniles between the ages of ten and sixteen at the time of their offense qualified for TYC commitment for felony offenses. In 2007, the 80th Legislature modified the qualifications for admittance to TYC by limiting eligible offenses to felonies and lowering the maximum age of a juvenile in TYC custody from twenty-one to nineteen years of age.

1. Texas Youth Commission Juvenile Demographics

As of the end of the 2010 fiscal year, TYC’s population was 1798 juveniles. This number was down from 3,448 juveniles in 2007; 2,425 juveniles in 2008, and 2,259 juveniles in 2009. Due to a combination of the 80th
Legislature’s passage of SB 103 (TYC Reform Bill) and an increased focus on community-based probation systems, TYC’s residential population fell drastically over the past four to five years.

TYC Residential Juvenile Population at the End of the Fiscal Year

Since 2008, the number of commitments to TYC steadily dropped, leaving many optimistic that progress would continue in diverting juveniles away from TYC and into local community probation programs. The 2011 reform stated goal by TYC officials and legislators was to maintain TYC commitments at a threshold no greater than 1100 juveniles per year. An example of such a decline in commitments is represented in the progress made by Harris County in FY2011. Harris County had projected 278 commitments during FY2011, yet as of July 2011 only 87 juveniles had been committed.27

In January 2011, the reported TYC population was approximately 92.16% male and 7.84% female.28 As of May 2011, the gender breakdown of new TYC commitments was approximately 89.6% male and 10.4% female.29 This was an increase in juvenile female representation over 2010 in which the breakdown was 92.8% male and 7.2% female. Since the passage of SB 103 by the 80th Legislature, which limited TYC commitments to felony offenses, the percentage of females committed did not reach higher than 8.6%.30

Percentage of TYC Commitments by Gender31

As of June 2011, the population at TYC facilities by race was approximately 21.47% Anglo, 38.26% African American, 39.43% Hispanic, and 0.83% Other.32 For FY2011, the racial make-up of new TYC commitments was 19.1% Anglo, 32.1% African American, 47.8% Hispanic, and 1.0% Other.33 Since
2008, the Hispanic population in TYC facilities increased compared to Anglo and African American populations. In 2008 the Hispanic population for new commitments was approximately 43.6% whereas the current statistics for 2011 show Hispanics represented 47.8% of new commitments to TYC. In FY2011 the average age of a new TYC commitment was 15.8 years, while the average age for juveniles residing in TYC facilities in 2010 was 16.6 years. There has been little variation in the past few years to the average age of a juvenile at the time of commitment to TYC from 15.6 to 15.7 years for 2008 to 2010. Additionally, the median age of a new juvenile offender for each year between 2008 and present has been 16 years.

For FY2011 only 16.5% of TYC juvenile offenders came from a home with married parents and 41.5% came from a home where their parents were never married. Further, for FY2011 57.8% of juveniles came from households living under the poverty line.

2. Recidivism Rates
Rehabilitative programs that strive to lower the recidivism rates of juveniles were large components of the TYC system. For FY2011, juveniles released from TYC custody had a one-year re-arrest rate of 60.1%. This number was up from 2008, 2009 and 2010, which stood at 56.1%, 56.6% and 58.2% respectively. In 2011, 38.4% of released TYC juveniles were adjudicated for a new offense within one year of leaving TYC facilities. While this number was up from 2008 (36.2%) it was down from both 2009 (40.9%) and 2010 (40.1%). The re-commitment rate to TYC in FY2011 was 16.8%.
representing a decrease from 2009-2010 when re-commitment rates peaked to 20.4%.46

3. Sentencing
Juveniles committed to TYC were subject to both determinate and indeterminate sentencing. A juvenile given a determinate sentence had the opportunity to participate and complete TYC programming until the age of nineteen, at which time they appeared before a judge to determine if they should move on to the adult prison system or if they should be granted adult parole for the remainder of their sentence. For a juvenile to be eligible for determinate sentencing, the prosecutor must submit a petition to a grand jury for approval and record the petition with the court.47 Determinate sentences must meet the statutory minimal stay requirements for TYC and can be no longer than forty years.48 Determinate sentencing was used 6% to 11% of the time over the past four years.49 Determinate and indeterminate sentencing options will remain with the new Texas Juvenile Justice Department.

Conversely, when a juvenile was given an indeterminate sentence they were allowed to remain in TYC custody no longer than the age of nineteen, and were not eligible for transfer to the adult system.50 An indeterminate sentence does not require that a juvenile stay until the age of nineteen, but does require that they remain for the statutorily mandated minimum stay.51 At the end of their minimal stay, a juvenile with an indeterminate sentence was brought before a TYC Review Panel for examination and possible parole. If a juvenile completed their minimal stay in TYC and showed significant advancement in their treatment programs they were eligible to be approved for juvenile parole.52
B. Texas Youth Commission Facilities And Programming

In 2010, TYC maintained seven secured facilities, nine community-based halfway houses, and twelve contract care residential programs. Each of these facilities serves a specific geographic area of the state and provides a varying degree of services to the juveniles that they house.

The seven secured facilities include: the Corsicana Residential Treatment Center, Evins Regional Juvenile Center, Gainesville State School, Giddings State School, McLennan County State Juvenile Correctional Facility Unit I, McLennan County State Juvenile Correctional Facility Unit II, and Ron Jackson State Juvenile Correctional Complex Unit I. These facilities provide services in a maximum secure and structured environment that supports the learning and rehabilitation of juveniles. Secure facilities house the juvenile offenders and provide educational services, meals, recreation, and program treatment onsite.

1. Education and Vocational Programs

Upon commitment to TYC, male offenders were admitted to the McLennan County State Juvenile Correctional Facility Unit I and female offenders were admitted to the Ron Jackson State Juvenile Correctional Complex Unit I for initial assessment. Under the new Texas Juvenile Justice Department, juveniles continue to be admitted to these facilities. At these facilities, juveniles undergo a series of medical, psychological, and educational evaluations. Upon evaluation, juveniles are placed at facilities that best treat their particular needs. The juvenile’s mental capacity, offense, need for programming, gender, and proximity to home are considered in evaluating these needs.

As a whole, these facilities emphasize continued education of offenders and offer a range of vocational studies. In FY2010, juveniles committed to TYC were between four and five years behind in educational proficiency, while 32% qualified as eligible for special educational programming. Facilities stress the completion of a juvenile’s high school education or, if a high school diploma cannot be obtained, the acquisition of a GED. Additionally, juveniles committed have the ability to continue their education by attending community college courses and gaining college credits.

In addition to giving juveniles the opportunity to complete their high school education, the facilities offer an array of vocational programming, including training in many high-demand fields, such as metal working and welding, automotive repair, air-conditioning and refrigerator repair, carpentry, computer science and networking, and horticulture programs. The vocational programs prepare juveniles to reenter their communities with a skill set many of their peers will not yet possess, and affords them a leg up on acquiring employment. For example, the automotive repair vocational training at Giddings certifies many of its students in automotive air conditioning repair. This certification is desirable in the workforce as it allows the juvenile not only to perform basic maintenance on cars and trucks.
but to also work on highly sophisticated air conditioning units.\textsuperscript{60}

\section*{2. Specialized Treatment Programs}

While all facilities offer rehabilitative programming, some facilities such as Corsicana, Giddings, and Ron Jackson Unit I offer more specialized treatment programs designed for specific juvenile offenders, such as alcohol and drug, sexual behavior, mental health, and violent offender treatment programs.

In FY2010, 42\% of juveniles committed to TYC were found to have a serious mental health diagnosis.\textsuperscript{61} Juveniles with severe mental incapacities and needs are placed at the Corsicana Residential Treatment Center (Corsicana RTC) for care. With 145 beds, Corsicana RTC is a primary center for housing and treating juveniles with severe mental illness or emotional instability. With the recent closure of the Crockett facility in 2011, Corsicana is positioned to have an increase in juveniles as the only state facility currently equipped to handle the most severe cases of mental health diagnoses.

The Giddings State School, located between Austin and Houston, houses juvenile offenders who have committed the most serious offenses. Giddings offers juveniles multiple rehabilitation programs including: sexual behavior, alcohol and drug, and capital and serious violent offender programs. As of June 2011, the Sexual Offender Program in Giddings had ninety-six juveniles enrolled, the Alcohol and Drug Program had thirty-six juveniles enrolled, and the Capital and Serious Violent Offender Program had forty-eight juveniles enrolled.\textsuperscript{62} These programs are described as extremely intensive and challenging, sometimes making juveniles re-enact their offenses in detail not only from their own perspective but also from that of their victims and the victims’ families. With such intensive programs, Giddings has become a model for juvenile rehabilitation and has been studied by other institutions within Texas as well as those from other states.\textsuperscript{63}

The Ron Jackson State Juvenile Correctional Complex Unit I serves as the orientation and assessment center for girls committed to the juvenile justice system. Most female offenders will stay at the facility to receive rehabilitative programming specifically designed for female juvenile offenders.\textsuperscript{64} Females make up a very small percentage of the total juvenile population and as such can be treated at a single facility. The Ron Jackson facility, like Giddings, offers the Capital and Serious Violent Offender Program as well as the Alcohol and Drug Program.\textsuperscript{65}

In addition to the secured facilities, programming and services were offered through TYC, and continue to be offered today, through approximately 224 beds in halfway houses across the state and 182 beds in contract care residential programs.\textsuperscript{66} Halfway houses act as a stepping-stone for exiting juveniles before they rejoin their families or move on to independent living. Halfway houses are also used to temporarily place juveniles that have had their parole revoked. These juveniles’ re-entry plans are reassessed before they re-enter the community.\textsuperscript{67}
C. Office Of The Independent Ombudsman And Office Of The Inspector General

The TYC was internally monitored by the Office of the Independent Ombudsman and the Office of the Inspector General. Each office was assigned specifically to investigate and, if necessary, prosecute statutory infractions and any illegal activities that took place within TYC facilities.

1. Office of the Independent Ombudsman

The Office of the Independent Ombudsman (OIO) was created for the purpose of ensuring that the rights of juveniles committed to TYC are properly protected. The OIO was created by the 80th Legislature in 2007 under SB 103, and acted independently from TYC. It is important to note that the OIO will continue its previous function of investigating crimes committed by members of the Texas Juvenile Justice Department. The Ombudsman is appointed by the Governor with the advice and consent of the Senate and serves for a period of two years. The Ombudsman may hire assistants to help with his or her duties and functions. SB 103 provided safeguards regarding the hiring of the Ombudsman. The Ombudsman may not be a registered lobbyist, be employed or manage a business that received funding from TYC, use or receive funds provided by TYC, or be an official of a Texas trade association. The OIO investigated public complaints of TYC administration and was utilized only after the full exhaustion of the TYC grievance system. Every fiscal quarter, the OIO submitted a report on the TYC grievance system and as well as a series of recommendations.

Since its creation by the 80th Legislature, the OIO conducted 3,707 separate interviews with juveniles in its attempt to resolve grievances and concerns in TYC. The OIO expressed concerns in past years over education services, suicide prevention programs, program restrictions on mental illness, and gang membership affiliation of juveniles in TYC custody. Additionally, the OIO conducted multiple training and educational sessions each year in areas of updated TYC policies for TYC staff, as well as public informational sessions to educate the public and media about TYC policies and ongoing structural changes.

In the first and second quarters of FY2011, the OIO conducted 54 site visits to TYC facilities, resolved 225 cases, and contacted 497 juveniles in an effort to resolve grievances. Additionally in 2011, the OIO implemented a toll free grievance hotline at all TYC facilities. In its first quarter of operation, the grievance hotline received an average of 19 calls per week. In the third quarter of FY2011, the OIO visited every TYC facility at least once. During this quarter the OIO commented that due to the unsure future of TYC and the upcoming transitional period, staff stress levels were high and TYC needed to continue to implement policy training and be sensitive to staffing issues.
2. Office of the Inspector General

The Office of the Inspector General (OIG) was established to investigate crimes committed by TYC employees, including parole officers. Additionally, the OIG investigated all criminal acts that were committed at TYC facilities or residential facilities operated by another entity under contract with TYC. In 2009, the authority of the OIG was expanded to include crimes committed at any facility in which a child committed to the custody of TYC was housed or received medical or mental health treatment. Like the OIO, the OIG will continue its investigative functions with relation to the Texas Juvenile Justice Department.

The types of investigations conducted by the OIG include matters concerning narcotics at facilities and allegations of sexual abuse. The OIG may be required to investigate suicides, deaths, or hospitalizations at facilities. The OIG is required to prepare a report detailing the results of any investigation. During TYC’s existence, the report was sent to the executive commissioner of TYC, the Governor, members of the Legislature, the Special Prosecution Unit, state auditor, and other agencies the OIG deemed appropriate.

As part of investigating incidents the OIG runs an incident reporting hotline known as the Incident Reporting Center (IRC). In FY2010, the IRC received 12,574 phone calls, emails and other communications to report varying incidents in TYC facilities. Of the 12,574 reports, 765 were referred to the Administrative Investigations Division (AID), 945 were assigned to the Criminal Investigation Division (CID), while the remaining reports were either referred to another division of TYC or dismissed.

The AID responds to the reported mistreatment of juveniles by staff in cases that include but are not limited to abuse, neglect, exploitation, and violations of policy. In FY2010, AID opened 1,132 investigations and closed 1,304 investigations. The vast majority of opened investigations were for TYC policy violations (780 investigations) followed by abuse (174 investigations) and neglect (103 investigations).

The CID is responsible for the investigation of all crimes that fall under the jurisdiction of the OIG as determined by the Legislature. This jurisdiction included the aforementioned duty to investigate crimes committed by TYC employees, crimes committed at TYC or contracted residential facilities, or crimes committed at any facility that houses or provides medical attention to a juvenile under TYC custody. The CID opened 1,239 cases in FY2010 and closed 1,735. In FY2010, investigations led to the arrest of thirty-three individuals, eighty-four indictments, eighty-three convictions, and seventy-four adjudications. Additionally, in FY2010, the Special Prosecution Unit accepted 257 cases, while declining 438.
II. TEXAS YOUTH COMMISSION REFORMS AND MERGER

On May 19, 2011 Governor Rick Perry signed into law SB 653 (Whitmire) which merged the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) to create the Texas Juvenile Justice Department (TJJJD). This central agency will be charged with providing all services and support to juvenile offenders in Texas. The merger of these two agencies was the culmination of previous efforts to reform the ways in which juvenile offenders are treated in Texas. Beginning in 2007, the Legislature began to place an emphasis on reform as a result of the allegations of abuse and neglect at TYC facilities.

In 2006, TYC was rocked by allegations of sexual abuse and cover-ups at its West Texas State School in the town of Pyote. After an investigation conducted by the Texas Rangers and the FBI, two high ranking officials at the West Texas State School were accused of having sexual relations with several juveniles at the facility. An internal TYC investigation found numerous incidents of sexual misconduct between staff and juveniles at the West Texas facility. As a result of the allegations the two officials accused were fired or forced to resign.

Several members of the Corsicana Residential Treatment Center (Corsicana RTC) staff, which houses most of the juvenile offenders with severe mental illnesses, were also accused of misconduct at their facility. According to a Dallas Morning News article written in 2007, an eighteen-year-old juvenile offender at the Corsicana RTC was a victim of assault at the hands of four other juvenile offenders. The assault took place while two guards that were supposed to be on duty were elsewhere. The guards were subsequently fired for their neglect; however the assault was not an isolated event at the Corsicana RTC. In fact, the article reported numerous incidents of assault and abuse, some of which were carried out by the guards themselves on the juveniles.

A. The Fallout From The Abuse: A Chance To Reform Juvenile Justice

As a consequence of the fallout from the abuse and assault allegations, Governor Perry instituted a number of reforms. On March 2, 2007, the Governor named former Deputy Attorney General, Jay Kimbrough, Conservator of TYC. Mr. Kimbrough was charged with leading the investigations into the misconduct of officials at TYC facilities.

On May 2, 2007, Mr. Kimbrough reported back to the Governor and Legislature that over the course of two months TYC had instituted a number of agency-wide reforms. Among the list of reforms instituted were: conducting new background checks on all TYC employees, surprise inspections of all TYC facilities, preventing the hiring of convicted felons, creating hotlines that juveniles could call to file a complaint, creating independent panels to review sentence modifications, establishing a
statewide hotline where juveniles could call for free counseling, and establishing a command post for special investigators. The purpose of these reforms was to increase juvenile offender safety and provide greater safeguards for staff accountability.

1. Senate Bill 103: The Beginning of a New Era in Juvenile Justice in Texas

On June 8, 2007, the 80th Legislature took an important step toward curing the problems of TYC when Governor Perry signed into law SB 103 (Hinojosa). This landmark piece of legislation accomplished quite a few things regarding the way in which juvenile offenders were served in Texas. SB 103 made a number of changes to the law by: (1) creating the Office of Inspector General to investigate crimes committed by TYC employees, (2) creating the Office of the Independent Ombudsman to review the types of services provided to juveniles in TYC facilities, (3) limiting the types of crimes for which juveniles were committed to TYC to felony offenses (previously juveniles could be sent to TYC for both felonies and misdemeanors), (4) establishing a minimum length of stay for juveniles without determinate sentences, (5) prohibiting TYC from housing juveniles younger than age fifteen with juveniles ages seventeen years or older unless necessary, and (6) lowering the maximum age a juvenile could stay in a TYC facility from age twenty-one to age nineteen.

Additionally, SB 103 made a number of minor changes that had major impacts. The bill gave TJPC the authority to provide grants to certain local probation boards to assist in the implementation of community-based programs, and established a special prosecution unit to assist local law enforcement officials in prosecuting criminal offenses or delinquent conduct on state grounds. The bill required the 81st Legislature (2009) to commission a study on the feasibility of moving TYC toward a more regionalized structure featuring smaller facilities, established term limits on the executive commissioner of TYC (although the bill allowed the executive commissioner to be reappointed with the consent of the Senate), and set up an advisory board to assist TYC’s executive commissioner. SB 103 also required all juvenile corrections officers to complete a minimum of 300 hours of training. Finally, the bill required TYC to establish a reintegration and reentry program for juvenile offenders.
2. Appropriations made for the Texas Youth Commission and the Texas Juvenile Probation Commission During the 80th Legislature

To fund these reform efforts the 80th Legislature appropriated more than $551 million to TYC, while TJPC received more than $328 million to assist with the juvenile probation portion of the requirement of SB 103. The following charts provide a generalized breakdown of the key areas of each agency’s budget. TYC devoted a majority of its budget to support services that were meant to protect the public and provide services to juveniles. These services included institutional services, health care services, and psychiatric services. A significant portion of the TJPC budget was devoted to community corrections services during the 80th Session. These programs are meant to divert juveniles away from incarceration and more toward community-based programs that promote rehabilitation and prevention.

TYC Budget for the 2008-2009 Biennium, 80th Legislature

TJPC Budget for the 2008-2009 Biennium, 80th Legislature
B. Continuation Of Reform

1. 2009 Sunset Advisory Commission Report and Recommendations
The Sunset Advisory Commission is a twelve member body appointed by the Lieutenant Governor and the Speaker of the House. The purpose of the Commission is to assess the continuing need for state agencies to exist. In 2008, the Commission reviewed the need to continue TYC, TJPC, and OIO. In 2009, the Sunset Advisory Commission published its list of recommendations to reform both agencies and the OIO.

Among the recommendations the Commission made was abolishing TYC and TJPC to create a single agency called the Texas Juvenile Justice Department. In addition, the Commission recommended that the Legislature establish an eleven member board to govern the new department. The 2009 report recommended that the Legislature appropriate funding to establish community corrections pilot programs. Following a full review of each agency’s purpose and function, the Commission sent their findings to the Legislature.

2. House Bill 3689: A Continuation of Reform in the 81st Legislature
Instead of moving forward with the Commission’s recommendation that TYC and TJPC be merged, the 81st Legislature chose to keep the two agencies separate for another two-year period. After months of debate and negotiation, Governor Perry signed into law HB 3689 (McClendon) on June 19, 2009. While HB 3689 maintained that TYC and TJPC would remain separate for at least another two years, it also put TYC, TJPC, and OIO under Sunset Review in 2011. Additionally, the legislation established Community Corrections Diversion Programs (Grant C Programs) which are meant to provide counties with additional funding to assist juveniles on probation instead of committing them to TYC facilities. HB 3689 also required TYC to develop a plan to reduce juvenile recidivism rates. Finally, the bill required TJPC to regulate all public and private non-secure correctional facilities.

HB 3689 focused on greater coordination between TYC, TJPC, local governments and counties as well as placed restrictions on TYC board membership and employment. Additionally, it required TYC to implement a comprehensive reading plan to improve the reading skills of juveniles in TYC facilities and provide more services for juveniles with mental impairments. To fund their programs and services the Legislature had to appropriate the funds necessary to both TYC and TJPC.
3. Appropriations made for the Texas Youth Commission and the Texas Juvenile Probation Commission During the 81st Legislature

To fund these programs the 81st Legislature appropriated more than $455 million to TYC and more than $362 million to TJPC. Continuing the reform efforts of the previous session, the Legislature devoted a significant portion of TYC’s budget to assist with secure correctional services. These services are meant to assist juveniles while they are in the custody of TYC. During the 81st Session the Legislature focused even more on community corrections services within TJPC’s budget. In fact, the Legislature appropriated $50 million more toward these services than it had done during the previous session.

TYC Budget for the 2010-2011 Biennium, 81st Legislature

TJPC Budget for the 2010-2011 Biennium, 81st Legislature
C. Creation Of A New Agency
Facing a massive shortfall, the winds for reform were at the backs of the Legislature, which ultimately culminated in the passage of SB 653 (2011 Sunset Bill, Whitmire).

1. 2011 Sunset Advisory Commission Report and Recommendations
In 2010, the Sunset Advisory Commission once again reviewed the need to continue operating TYC and TJPC as standalone agencies. In their 2011 report to the Legislature, the Commission recommended that TYC and TJPC be merged to create the Texas Juvenile Justice Department (TJJD). Among the other recommendations the Commission made were to establish a thirteen member board, create a transition team to assist with the organizational structure of the new agency, and require TJJD to be subject to Sunset review on September 1, 2017. The Commission recommended that the state be allowed to transfer a closed TYC facility to a county or municipality that has a population of less than 100,000 provided the county or municipality use the facility for a purpose that benefits the public interest of the state.

2. Senate Bill 653: The Creation of the Texas Juvenile Justice Department, 82nd Legislature
On May 19, 2011 Governor Rick Perry signed into law SB 653 (Whitmire). SB 653 abolished the Texas Youth Commission and the Texas Juvenile Probation Commission and established the Texas Juvenile Justice Department which officially started on December 1, 2011. The TJJD oversees and operates all facets of the juvenile justice system. The purpose of the merger was to create a unified state juvenile justice agency that works in conjunction with local governments, courts, and communities to provide services for juveniles. SB 653 was passed to promote community-based solutions to juvenile justice reform as opposed to a corrections-oriented approach.

The merger of TYC and TJPC is a significant shift in juvenile justice reform for the Texas Legislature. There were a number of factors that served as a catalyst to the merger, namely the budget and the Legislature’s desire to continue the positive trends of the two previous sessions. As a result of the budget shortfall during the 82nd Session, most state agencies and departments were forced to cut their budgets by a minimum of ten percent.

As of the printing of this publication, SB 653 is still in the early stages of implementation. On September 1, 2011, Governor Perry appointed the statutorily required transition team to coordinate and oversee the transition of services and facilities to the new agency. The transition team consists of representatives from the Office of the Governor Budget, Planning, and Policy Division, the executive commissioner of the Texas Health and Human Services Commission, the Independent Ombudsman.
of the Texas Youth Commission, a state representative, a county chief juvenile probation officer, and the executive directors of the Texas Juvenile Probation Commission and Texas Youth Commission. The exact budget of the department is currently unknown because of the administrative overlap and redundancy the two agencies currently have. The overall structure and functions of the new bill and the new department will continue until at least 2017.

3. Structure and Focus of the New Department

Between December 1, 2011 and March 1, 2012, the transition team is required to assist members of the TJJD Board with the implementation of services the new department will provide. Additionally, the transition team is required to submit short, medium, and long range goals for the department, as well as benchmarks for the completion of these goals and projects. The transferring of agency services and facilities to the TJJD were required to take place no later than December 1, 2011.128

In addition to the transition team, the TJJD has a thirteen member board appointed by the Governor.129 The board is composed of: one district court judge who is a part of a juvenile court, a juvenile prosecutor, three members who are a part of a county commissioners court, an adolescent mental health treatment professional, an educator, and three members of the general public.130 The final three members of the board are three juvenile probation chiefs who are respectively from counties that have populations of fewer than 7,500 juveniles, between 7,500 and 80,000 juveniles, and one county with more than 80,000 juveniles.131 The equal representation among juvenile probation chiefs is in an important component of SB 653 because it will allow the smaller counties to have an input in the operation of the new agency. Board members serve staggered, six year terms.132

The TJJD board is responsible for department operations, developing and implementing policy, managing the executive director, and staffing.133 The executive director is in charge of the daily functions of the new agency and reports directly to the thirteen member board. Additionally, the board is in charge of developing and implementing the department’s missions and goals.134 The legislation requires the board to establish cost-effective services that focus on utilizing community-based solutions as they relate to the rehabilitative services the department will offer.135

The new department also has an Advisory Council that assists in determining the needs and problems of county juvenile probation departments.136 The Council is also charged with conducting strategic planning, reviewing and proposing new standards in juvenile probation, and conducting cost analysis for the county probation departments.137

A new function of TJJD is responsibility for the prevention and intervention services to be provided to juveniles. Currently, delinquency programs are the responsibility of the Department of Family and Protective Services, and dropout prevention services are the responsibility of the
Texas Education Agency. However, SB 653 gives these powers and duties to TJJD. The purpose of these programs is to prevent or intervene in behavior that may lead to juvenile delinquency, truancy, dropout, and referral to the juvenile justice system.\textsuperscript{138} The department will be required to create and implement statewide plans that focus on these issues.\textsuperscript{139} The department is required to provide proper funding to implement these programs. The goal of the department is to improve prevention service coordination between federal, state, and local officials.\textsuperscript{140}

SB 653 continues a number of the reform efforts instituted by SB 103 (2007) and HB 3689 (2009). Most important among these reform efforts is the continuation of the Office of the Inspector General and the Office of the Independent Ombudsman. Under the provisions of SB 653, the OIG will continue its function of investigating crimes committed by the TJJD or its employees at TJJD facilities.\textsuperscript{141} Furthermore, the OIO will continue its previous functions put in place by SB 103 (2007).\textsuperscript{142} The OIO will carry on its function as an advocate for the rights of juveniles who are under TJJD control.\textsuperscript{143} The OIO will continue to maintain independence over its duties and power as well as continue to report any allegations of abuse, problems with TJJD facility programming or delivery of services, and any allegations of TJJD staff interfering with its investigations.\textsuperscript{144}

Along with keeping the Offices of Inspector General and Office of the Independent Ombudsman intact, SB 653 keeps in place a number of other important reforms. SB 653 continues the requirement that TYC (now TJJD) corrections staff receive 300 hours of training before they are allowed to work at a TJJD facility.\textsuperscript{145} The training must include, among other things, information and instruction relating to security procedures, signs of suicide risk, signs and symptoms of juvenile abuse, assault or neglect, and training relating to juvenile mental health issues.\textsuperscript{146} SB 653 continues the minimum and maximum length of stay of 9 and 24 months for juveniles with indeterminate sentences.\textsuperscript{147} The legislation also continues previous requirements that the TJJD develop a comprehensive reentry and reintegration plan for juveniles released from facilities.\textsuperscript{148} However, the TJJD is now required to develop an individualized plan for released juveniles.\textsuperscript{149} The bill requires the plan to include housing assistance, a step-down program, family counseling, academic and vocational mentoring, counseling for juveniles who were abused while in TJJD custody, and any other treatment the department deems appropriate for the juvenile.\textsuperscript{150} SB 653 no longer requires that facilities be accredited by the American Correctional Association.\textsuperscript{151} TJJD officials will be given the option to seek this accreditation.\textsuperscript{152}
4. Appropriations made for the Texas Youth Commission and the Texas Juvenile Probation Commission During the 82nd Legislative Session

To fund the merger the 82nd Legislature appropriated more than $339 million to TYC and more than $325 million to TJPC. It should be noted that the budgets of the two agencies were combined once the merger was complete. There has been speculation that the combined agency will save the state upwards of $150 million. This number comes from comparisons to the appropriations made to both agencies during the 81st Session. However, according to the fiscal note of SB 653, compiled by the Legislative Budget Board (LBB), the actual savings will be almost $3.3 million. The LBB derives this number from the anticipated cost savings of reducing duplication and redundancy among the executive positions in the new department. At the current time of this publication, it is not known with certainty which TYC or TJPC functions will be lost during the transition to the TJJD. Once the combined agency’s bill pattern is developed the exact

TYC Budget for the 2012-2013 Biennium, 82nd Legislature

TJPC Budget for the 2012-2013 Biennium, 82nd Legislature
makeup of the new department will be clearer. The following are budget breakdowns for both agencies.

III. CONCLUSION AND POLICY RECOMMENDATIONS
There are many decisions that will have to be made relating to the overall structure and focus of TJJD. Nevertheless, after taking a closer look at the budget and previous reform efforts, there are a few things that seem reasonably clear about the new department. First, it is reasonable to assume that the new department will have a greater focus on probation and community-based solutions as opposed to corrections-based solutions. This assumption is based on the level of funding cuts in the budget for the 2012-2013 biennium. A closer look at HB 1 (Pitts), the 2011 Appropriations Act, shows that TJPC’s overall budget was cut by $37 million whereas TYC’s overall budget was cut by almost $117 million.\textsuperscript{156} It should be noted that some of the cuts to TYC’s budget are based on the closure or merger of the three facilities, in addition to the administrative cost of the closure or merger of these facilities.

A deeper inspection of the budget shows the Legislature’s intent to continue funding TJPC’s Community Corrections Services. The Legislature has devoted more than $186 million toward these programs for the 2012-2013 biennium. The programs are meant to divert juveniles from TYC as well as provide post-adjudication services for juveniles that are sent to TYC.\textsuperscript{157} Among the most successful of the programs has been the Community Corrections Diversion Program (Grant C). Grant C Programs were funded during the 81st Session and are designed to provide funding to various rehabilitative services including community-based programs, residential placement, and transition and aftercare programs and services.\textsuperscript{158} Since the inception of Grant C Programs the number of TYC commitments has been reduced by 30\%.\textsuperscript{159}

THE FOLLOWING RECOMMENDATIONS ARE MADE:

1. Increase funding for diversionary programs
As TJJD continues to take shape, it is strongly recommended that the Legislature provide additional funding to TJJD for rehabilitation and reentry services for juveniles coming from TYC. The 82nd Legislature appropriated nearly $39 million toward these programs, which is a drop of close to $20 million from the 81st Session (2009).

This merger can benefit the juvenile justice system in Texas if the Legislature is willing to provide the necessary funding. Without this necessary funding, it is very difficult to foresee the reform efforts of the previous legislative sessions continuing, which would be extremely detrimental to juveniles across Texas.
2. Emphasis on oversight of the new Texas Juvenile Justice Department

In addition, it is important to continue to have oversight of the department. The current oversight within SB 653 is a step in the right direction to prevent the incidents of previous years from reoccurring. It is also important that the Legislature continue to keep an eye focused on the new department to ensure that the institutional focus of TYC does not overtake the community-based focus of TJPC, a concern of many within the juvenile probation community.

Much about the TJJD is unknown at the current time; however it is the hope that the new department will continue the positive trends of the previous four years. It is important for the juvenile justice system in Texas that the new department continues to bring down the number of referrals and commitments to TYC. Equally as important, is that the merger will continue to make juvenile justice reform a “shared responsibility” between state, local and community partners.\(^{160}\) With this shared responsibility comes many challenges, but the merger of TYC and TJPC is another step in the right direction to achieving the goal of completely reforming the juvenile justice system in Texas.
ADULT CERTIFICATION

I. ADULT CERTIFICATION OVERVIEW
The Texas juvenile justice system has a legal mechanism that allows juveniles to be removed from the juvenile system and certified to stand trial as an adult.161 When a juvenile is charged with a qualifying felony offense, the prosecutor may ask the juvenile court judge to retain the offender in the juvenile system, or transfer the youth to the adult court system.162 Although the number of youth certified as adults represents a small percentage of all juvenile dispositions, transfer to the adult system may have severe consequences for the juvenile, warranting an evaluation of this process.163 The Texas juvenile justice system can be divided into two separate categories, pre-adjudication and post-adjudication. This publication will focus on the pre-adjudication process of adult certification, and include statistics on an individual and aggregate level. Additionally, this report will address the consequences of adult certification through an analysis of the post-adjudication treatment of juveniles certified versus those who remain in the juvenile system.

II. PRE-ADJUDICATION
Juvenile cases are generally civil in nature and are governed by the Texas Family Code.164 For the purposes of the adjudication process, the Texas Family Code considers a juvenile to be between ten and sixteen years of age.165 All youthful offenders ages seventeen and older at the time of the offense are automatically transferred to the adult criminal court system irrespective of their offense.166 When a juvenile is charged with an offense, there can be a variety of outcomes usually dependent on the severity of the offense and the background of the offender.167 The two most serious dispositions juveniles face are adult certification or commitment to the Texas Juvenile Justice Department.

A. The Procedural Process Of Adult Certification
There are several methods governed by the Texas Family Code that enable a juvenile to be certified to stand trial in adult court.168 The Texas Family Code permits the judicial waiver for a juvenile as young as age fourteen who commits a capital felony offense, aggravated controlled substance felony, or a felony of the first degree.169 The Family Code allows certification to the adult court at age fifteen or sixteen for the aforementioned felonies and any second degree, third degree, or state jail felony.170 State jail felonies are considered a lesser offense, though still certifiable, and encompass a vast array of offenses.171 A few of the more severe state jail felonies include criminally negligent homicide, arson, and driving while intoxicated with a child passenger.172 However, state jail felonies also include such minor offenses as graffiti, credit or debit card abuse, and interfering with an emergency telephone call.173
Additionally, the Family Code permits the certification of any person age eighteen or older who allegedly committed a capital felony or murder between the ages of ten and seventeen; an aggravated controlled substance felony or first degree felony other than murder between ages fourteen through seventeen; or committed a second degree, third degree, or state jail felony between ages fifteen and seventeen. In other words, if a youth commits one of these crimes above but was not arrested until after his/her eighteenth birthday, the prosecution can waive juvenile jurisdiction and transfer him to the adult court regardless of the fact that he was a juvenile when he committed the offense.

Finally, Texas has a provision in the Family Code that requires a juvenile court to automatically waive its exclusive jurisdiction for subsequent certifiable offenses if the youth has already been certified for a previous offense. This is often referred to as the “once an adult, always an adult” provision. Upon certification to the adult system, the Family Code no longer governs and the juvenile is subjected to the Texas Code of Criminal Procedure.

The process of certifying a youth as an adult is initiated when the prosecutor files a motion requesting the judge to waive the court’s exclusive jurisdiction. Once the motion is filed, an independent probable cause hearing must take place in front of a grand jury with witnesses and evidence presented. The judge is the sole decision maker and according to the Family Code, must evaluate the following four factors:

1.) Whether the alleged offense was against person or property, with greater weight in favor of transfer given to offenses against the person,
2.) The sophistication and maturity of the juvenile,
3.) The record and previous history of the child, and
4.) The prospects of adequate protection of the public and likelihood of rehabilitation of the child by use of the procedures, services and facilities currently available to the juvenile court.

Upon consideration of the aforementioned factors, the evidence provided must give the court probable cause to believe that the youth committed the alleged offense, and that the transfer is necessary to protect the welfare of the community due to either the seriousness of the offense or the juvenile’s background. If the judge decides to certify the offender, the juvenile is eligible to receive the entire range of sanctions available to adult offenders excluding the death penalty and life without parole for a capital offense. Upon conviction in the adult system, the juvenile is placed in the Youthful Offender Program (YOP) and sent to the Clemens Prison Unit for adult offenders if the offender is male, or the Hilltop Unit if female.

Once certified as an adult, the juvenile is treated as an adult for all intents and purposes of the criminal law. Prior to the changes implemented by the 82nd Texas Legislature, this meant that instead of being held in a juvenile detention facility while awaiting trial, juveniles must be transferred to an
adult jail. To limit risks of injury to the juvenile from older adult inmates as well as other certified juveniles, certified juveniles in adult county jail facilities are held in administrative segregation during pretrial detention; also known as solitary confinement. Research indicates that periods of isolation are harmful to juveniles and make it more difficult to treat them successfully.\(^{182}\) The U.S. Department of Justice findings revealed youth experience symptoms of paranoia, anxiety, and depression even after very short periods of isolation.\(^{183}\) Prison officials are thus faced with a dilemma. By placing the youth in administrative segregation, youth are protected from physical and sexual abuse, but administrative segregation can exacerbate mental health issues and suicidal impulses.\(^{184}\)

The most recent policy development regarding this issue in Texas is Senate Bill 1209 (Whitmire), which was passed by the 82nd Texas Legislature in 2011.\(^{185}\) This bill gives local juvenile probation departments the authority to adopt policies providing juvenile court judges with the discretion to hold a certified youth in a juvenile facility while awaiting adjudication.\(^{186}\) Keeping certified youth in juvenile facilities during pretrial detention would remove the need for administrative segregation.

Proponents of adult certification cite that the existence of the adult certification process serves as a deterrent to youth and successfully dissuades them from committing offenses. However, adult certification has been commonly used beginning in the late 1970’s and there has yet to be a significant change in juvenile violent crime. With these statistics revealing a number of inconsistencies throughout the certification process, it is essential to explore the aftermath of juvenile adjudication to fully understand the impact of the decision to certify a juvenile offender.

### B. Determinate And Indeterminate Sentencing

There are two types of classifications of juveniles in TJJD facilities (formerly TYC), sentenced offenders and youth that are committed with indeterminate sentences.\(^{187}\) The majority of those placed in TJJD facilities have been given indeterminate sentences.\(^{188}\) These youth, after adjudication as delinquents, are committed to the care, custody and control of TJJD for a period of time not to exceed their nineteenth birthday.\(^{189}\) Upon their admission into the program, TJJD staff members are given the responsibility of determining the juvenile’s minimum length of stay based on a number of factors that include the seriousness of the offense and the juvenile’s delinquent history.\(^{190}\) During TYC’s existence, a Release Review Panel, a branch of TYC, reviewed each juvenile’s case upon completion of the minimum length of stay.\(^{191}\) At the time of publication, it is not clear whether this practice would continue under TJJD. The indeterminate sentence process expires when the juvenile reaches nineteen years of age, regardless of whether he/she has completed their minimum length of stay.\(^{192}\)

In contrast, the determinate sentence requires the prosecutor to receive an indictment from a grand jury.\(^{193}\) This juvenile indictment process is
the same for both the determinate sentence juveniles and those who are certified to the adult system.\textsuperscript{194} The decision as to whether the youth is certified or committed to TJJD for a determinate sentence is based in part upon recommendation by the prosecutor.\textsuperscript{195} The determinate sentence process is also described as blended sentencing.\textsuperscript{196} Youths adjudicated with a determinate sentence are committed to TJJD for a minimum period of confinement set by statute: three years for a felony of the first degree, two years for a felony in the second degree, and one year for a third degree.\textsuperscript{197} During TYC’s existence, if the youth was given a determinate sentence and was able to complete the minimum period of confinement (MPC) before his nineteenth birthday, TYC’s Release Review Panel had paroling authority.\textsuperscript{198} If the youth is unable to complete the MPC prior to turning nineteen, the youth is returned to the committing court and the juvenile court judge has the authority to release the youth on parole through the Texas Department of Criminal Justice or transfer the youth to an adult facility for the remainder of the sentence.\textsuperscript{199} Because determinate sentencing involves potentially long sentences, five to forty years, with ultimate incarceration in prison, the Texas Family Code has identified roughly thirty serious qualifying offenses.\textsuperscript{200} These offenses include all of the most violent crimes; however, the determinate sentencing qualifying offenses are far more limited than the requirements for adult certification.\textsuperscript{201}

III. STATEWIDE STATISTICAL ANALYSIS

This report uses data that the Texas Juvenile Probation Commission (TJPC) collects from each county annually regarding referrals, dispositions and demographics. The TJPC compiles this information into a report entitled, \textit{The State of Juvenile Probation Activity in Texas: Statistical and Other Data on the Juvenile Justice System in Texas}. The data was analyzed to examine the developing trends of adult certification across the state. Included in this section is an examination of specific variables contributing to adult certification such as the severity of the offense, the ethnic background of the juvenile, and the county in which the juvenile is located.

A. General Population Breakdown

Across the State of Texas, the juvenile population ages ten to sixteen makes up just over ten percent of the general population.\textsuperscript{202} TJPC and the Texas State Data Center divide the population into four ethnic groups: Anglo, African American, Hispanic and Other.

It is necessary to quantify the juvenile population status in the aggregate to better understand the statistics on adult certification and how the demographic breakdowns compare. Although the Anglo juvenile population was the majority ethnicity in 2004, the juvenile Hispanic population gained the majority status in 2005 with over 42% of the population and has steadily increased nearing 45% in 2010.\textsuperscript{203} The African American juvenile population remains consistent with an average of 13.5% similar to the
catchall Other category with an average of 3.65% from 2004-2010. There are on average 2.4 million juveniles in the State of Texas each year. The TJPC has reported an average of 96,263 juvenile dispositions per year from 2004-2010. The reported dispositions range from referrals that are dismissed to juveniles committed to a facility or certified as adults. Of the 96,263 dispositions each year, 19,461 (20%) are felony offenses. Every juvenile disposition is recorded and compiled in the annual report, which categorizes the dispositions into felonies, misdemeanors and status offenses. Although there were more juveniles sent to TYC than were certified on average each year from 2004-2010 (1,917 and 208 respectively), these two dispositions comprise just 2% of the total juvenile dispositions and 11% of the juvenile felony dispositions.

**B. Severity Of The Offense**

When comparing those juveniles that are certified by nature of the offense, the felony offenses were divided into violent and non-violent to better classify the young offenders. The felonies classified as violent are: homicide, attempted homicide, sexual assault, robbery, aggravated assault and burglary, which represent roughly 52% of the total felony dispositions. The non-violent felonies include: theft, motor vehicle theft, felony drug offense, weapons violation and other felonies making up the remaining 48%.

From 2004-2010 there were 1,458 juveniles certified to stand trial in the adult criminal justice system. Of those 1,458 certifications, 1,296 (89%) were the result of a juvenile charged with a violent crime. During that same seven-year span, there were over seventy-five thousand violent crimes committed and disposed of through the juvenile system and around seventy thousand non-violent crimes. Of the seventy thousand non-violent crimes, 160 (0.002%) juveniles were certified to the adult system as a result. A majority of the non-violent offenders certified were the result of either a felony drug offense, or ‘other’ felony. The U.S. Supreme Court ruled in *Richards v. Wisconsin* that drug offenses were not per se violent, but given the nature of the offense, it is reasonable to assume that weapons may be involved in numerous drug related incidents. The felony drug offenses and ‘other’ felonies made up nearly 80% of all non-violent felony certifications. When these numbers are considered in the aggregate, 1 in 1,000 juveniles charged with a non-violent felony were certified as an adult.

The overwhelming majority (89%) of juveniles certified were charged with a violent felony offense. It is essential to assess each violent felony offense separately to determine to what extent the severity of the offense reflects the decision to waive jurisdiction and transfer the juvenile offender.
The preceding chart illustrates the average number of dispositions per year categorized by offense type. By comparison, the following chart reflects the number of certifications on average for both the violent and nonviolent offenses.

The data illustrate the average number of juveniles certified for robberies (76) is greater than the number of certifications for homicide (35), attempted homicide (2) and sexual assault (38) combined. The number of juveniles certified for robbery seems highly disproportionate in comparison to the other violent offenses. However, the charts provide a significant amount of clarity over the seemingly incongruent number of certifications for specific felonies. The percentages on the graph indicate what percentage of each category of juvenile offenses result in adult certification. While the average number of certifications for homicide is less than that of sexual assault or robbery, 50% of all homicides result in the juvenile transferred to the adult system. In comparison, there are well over 1,000 robberies and sexual assaults in a given year but only 76 (7.44%) and 38 (2.53%) of the juveniles are certified for those offenses respectively.
When examining the number of certifications across the State of Texas that are the result of an aggravated robbery, the number of certifications stemming from a sexual assault charge seems rather small in comparison. There are nearly five hundred more sexual assaults than robberies each year on average (1,500 and 1,021 respectively), but the number of robberies certified is double that of sexual assaults. Though this statistic may seem inconsistent, a primary focus of the juvenile justice system is dedicated to rehabilitation. TYC created an entire program for the juvenile offenders that commit a sexual assault related offense. This program has garnered much support across the state and has demonstrated considerable success based on the recidivism rates of those juveniles who participate. Given the program’s success, prosecutors may feel that the juvenile offenders, if placed in the juvenile offender program, will have an opportunity to be rehabilitated, leading to a decision not to pursue certification.

Furthermore, the term sexual assault encompasses several felonies including continuous sexual abuse of a young child or children, aggravated sexual assault, and sexual assault. Given that, prosecutors may elect to certify those juveniles who commit only the most serious forms of sexual assault, which might lead to the inconsistency of certifications between robberies and sexual assaults.
The preceding pie graphs provide an additional angle to analyze the data on adult certification. The first graph displays the average number of certifications each year (208) and illustrates what percentage each offense comprises. In other words, of the average number of certifications per year, juveniles charged with homicide comprise 17% (35) of those. Sexual assault and robbery combine for 55% of the juvenile offenses certified each year. The second graph allocates what percentage of yearly violent felonies each category comprises. Note that more than 75% of the violent felonies each year are aggravated assault or burglary, yet those offenses combine for just 16% of certifications each year. In contrast, juvenile homicide and attempted homicide combine for 18% of the certifications each year yet are responsible for less than 2% of the juvenile violent felonies.

There are an average of about 3,000 aggravated assaults and 5,000 burglaries each year, yet just 1 in 167 aggravated assaults will be certified and 1 in 500 burglaries. Juveniles charged with homicide or attempted homicide are much more likely to be certified at 50% and 20% respectively. While these graphs allow for a greater perspective on juvenile violent offenses, there remain inconsistencies in the certification process regarding the severity of the crime. It is necessary to examine each individual characteristic of juveniles certified in conjunction with the type of offense to properly assess the status of adult certification. In addition to the severity of the crime, the ethnic background of the juvenile may play a significant role in the transfer of youth to the adult system.

C. Ethnicity Of The Offender
Between 2004 and 2008 there were a total of 1,042 juveniles certified as adults, which averages about 208 certifications per year. TJPC separated the data on certifications by race and severity of offense. On average, Hispanics have the highest representation of certified juveniles with 42% of the total certifications. African Americans are the second most represented ethnicity, making up for an average of 38% of juveniles certified.
to stand trial as adults. Anglo juveniles make up 19%, followed by Other with just 1% of the total number of certifications. Out of the average of 208 juveniles certified per year, African Americans and Hispanics comprised 166 of those.

**Ethnicity Breakdown of Juvenile Justice Statistics Across Texas Averaged 2004-2010**

![Ethnicity Breakdown Graph](image)

When the ethnic breakdown of certifications is compared to the percentage of the overall population, the statistics indicate that African American juveniles are certified at a much higher rate than their counterparts. African American juveniles make up just 13% of the overall population, yet comprise 38% of all juveniles certified. In contrast, Anglos make up 40% of the juvenile population but account for only 19% of the adult certifications. Of the four ethnic categories, Hispanics appear to have the most congruent number of certifications per population with, 42% of certifications compared to 43% of the overall juvenile population.

To analyze the discrepancy between population and certifications, the data was distinguished with both the severity of the crime and ethnic background in order to develop a more accurate picture of the state of the certification process. From 2004-2008 African American juveniles made up 38% of all certifications, yet they were responsible for just 23% of the total felony dispositions. African American juveniles did comprise almost 29% of all violent felonies, more than double their percentage of the total juvenile population (13%), but only contributed to 19% of all non-violent felonies. As previously mentioned, the juvenile Anglo population comprises 40% of the total juvenile population, but only 19% of all juveniles certified. However, Anglo juveniles comprise 31% of all felony dispositions including 30% of violent felonies and 31% of non-violent felonies. While the juvenile Anglo population does commit a lower percentage of crimes when compared to their overall population, theoretically the number of certifications should be congruent with the percentage of felony dispositions with more weight given toward the violent felonies. In other words, the percentage of certifications should be relatively consistent with the percentage of violent felonies committed.
The Hispanic juvenile population has perhaps the more consistent data with 43% of the total population and 42% of the certifications. They account for almost 45% of the total felony dispositions with 40% violent and 49% non-violent during that five-year time span. Although the remaining ‘Other’ juveniles make up almost 4% of the population, they comprise just over 1% of the number of certifications and less than one percent of felony dispositions including the violent and non-violent in nature.

After analyzing these statistics, it appears that an inconsistent number of African American juveniles are being certified at a higher rate than all other juveniles. African American juveniles are not responsible for a higher percentage of felonies and non-violent felonies in comparison to their Anglo and Hispanic counterparts yet they represent 38% of all certifications. There was no indication that the African American population was committing a significantly higher percentage of violent offenses to justify the large gap between population and certifications. Furthermore, the juvenile Anglo population was underrepresented in certifications compared to their percentage of population and number of violent offenses committed. The juvenile Anglo population was responsible for a larger portion of violent felonies than their African American counterparts and represents more than double the African American juvenile population.

**D. Location Of The Offender By County**

In addition to the juvenile’s background, a factor potentially unrelated to a prosecutor’s discretion is the county where the offender is located. TJPC provided a statewide breakdown of certifications by county from 2004 to 2010. There is a statewide average of 208 certifications each year. Similar to the ethnic inconsistencies, the statewide certification statistics reveal variations from county to county and their average number of certifications per year. The larger counties like Harris and Dallas were responsible for the largest number of statewide certifications per year. However, counties with
similar populations had discrepancies in their certification numbers leading to the assumption that the judicial waiver process is highly discretionary. In other words, it appears as such that the offense may not matter so much as does the county it was committed in and the ethnicity of the offender.

The following graph indicates the average number of certifications each county contributed to the total.

**Percentage Breakdown of the Juvenile Population (ages 10-16) Disposition and Number of Certifications in Texas Averaged from 2004-2010**

Harris County contributes the largest number of certifications with an average of 67 (32%). The next six highest counties (Dallas, Bexar, Jefferson, Webb, Tarrant and Smith) combine for an average of 66 (31%) certifications a year, still fewer than Harris County. The remaining counties across the state average less than three certifications each year.

With the seemingly large discrepancy in certifications between counties across the state, it is necessary to evaluate the population of each county and total number of dispositions to examine the correlation between those numbers and certifications. The ten counties represented in the graph were chosen based on their diversity in population, dispositions, and number of certifications. Each bar represents that counties’ percentage of the total number across the state. For example, Harris County’s juvenile population comprises 16.28% (398,000) of the entire juvenile population of Texas (2.4 million). Of the average number of juvenile dispositions in Texas from 2004-2010 (97,000), Harris County comprises 17% (16,000) of those. The following graph illustrates the percentage of adult certifications per juvenile dispositions in each county. The purpose of this clarification is to assess each county’s propensity for adult certification.
Val Verde County has an average of 272 (0.28%) juvenile dispositions each year and a juvenile population of just under 6,000 (0.24%). However, Val Verde County certifies 0.96% of all juvenile dispositions. In other words, Val Verde County certifies about 1 in 100 juvenile dispositions, a higher percentage than all other counties. In comparison, Harris County certifies 0.44% of the total juvenile dispositions, or 1 in every 230. Tarrant County on the other hand, ranks third behind Harris and Dallas Counties in population, but is responsible for an average of five certifications each year. Additionally, Tarrant County makes up almost 7% of the total population and 6% of total juvenile dispositions, but only certifies 0.07% of its total dispositions each year. On average, about 1 in 1,430 juveniles in Tarrant County is certified to stand trial as an adult.

Both Bexar and Nueces County each have a higher percentage of dispositions relative to their juvenile population. This could be the result of a higher number of referrals in each county perhaps because the police are arresting a higher number of juveniles, or the charges against the juveniles are less likely to be dropped. As an alternative, it may be indicative of a higher crime area though this analysis is beyond the scope of this publication. Regardless, these statewide discrepancies in certifications by county are indicative that the certification process is largely discretionary. Despite the factors listed in the Texas Family Code, there does not appear to be a consistent statewide application of the adult certification process. Perhaps the factors do not lend themselves to a uniform standard given that counties with similar populations and dispositions differ greatly in terms of adult certifications.

IV. POST-ADJUDICATION
When a juvenile is charged with a felony offense, the decision to certify the offender requires a complete and total understanding of the potential consequences related to certification. Because the certification occurs pre-adjudication, it may be difficult from a prosecutor’s perspective to assess the impact certification can have on the juvenile post-adjudication.
If a convicted certified juvenile is not placed on parole through the Texas Department of Criminal Justice (TDCJ), they are transferred to an adult prison facility to serve their sentence. If the youthful offender is male, he is sent to the Clemens Unit in Brazoria, Texas and if the offender is female, the Hilltop Unit in Gatesville, Texas. Youth convicted of state jail felonies are transferred to state jail facilities throughout the state.

Once in the adult system, juveniles face prison officials with a different mindset and varying conditions that they would not have otherwise have encountered in the juvenile system. Unlike the juvenile justice system which is based upon the premise of rehabilitation, the adult criminal justice system takes on a more punitive approach. Most of the juvenile males transferred to the Clemens Unit are placed in the Youthful Offender Program (YOP), which is a separate specialized treatment program for juveniles housed in the adult prison facility. Due to capacity limitations however, not all juvenile inmates are able to participate in the YOP. For those juveniles who are placed among the adult general prison population, administrative segregation may be used as a protective measure to ensure the juvenile’s physical safety.

The following pages examine conditions of confinement in the adult system and highlight how these differ from the juvenile system. Specifically, this section will illustrate a side-by-side comparison of the YOP and TJJD institutions focusing on the educational opportunities, specialized activities and treatment, and overall quality of life. It concludes that the YOP is making progress but that juveniles placed in adult facilities face greater obstacles to successful rehabilitation than those who are kept in the juvenile justice system.

A. The Youthful Offender Program

1. General Overview

Male juveniles certified as adults are placed in the YOP located in the Clemens Unit, an adult prison that accommodates youthful offenders as well. The facility has a separate area where the youthful offenders are kept during the day while their YOP specific programming is conducted. This separate area is located within the adult facility, but the youthful offenders are segregated from the adult offenders for the majority of the day. The separation of youthful offenders from adult inmates is intended as an added element of protection, however there are numerous occasions throughout the week where the population is subject to integration. For example, entire floors in the facility are dedicated to house youthful offenders however these floors may be located above and below the adult floors thus permitting interaction through sound. Furthermore, both juveniles and adults attend class in the same classroom, but are placed on opposite sides of the room.

A recent addition to the YOP is the COURAGE (Challenge, Opportunity, Understanding, Respect, Acceptance, Growth, and Education) program. The mission of COURAGE is to provide a vehicle for positive change
for youthful offenders through targeted programs, supervision, and management in a safe, restorative environment. There are three levels within the COURAGE program, “Sparrow,” “Hawk,” and “Eagle.” Each level has its own set of responsibilities and privileges. After an offender has completed a minimum number of weeks, mastered tasks assigned at each level, and demonstrated positive behavior, he may petition staff for advancement to the next level. An offender whose behavior is sufficiently serious may also regress to a level called “Broken Wing.” The COURAGE program is designed as a behavioral program primarily focused on motivating positive behavior and encouraging the youth to participate in the opportunities available for them.

2. Educational Opportunities
The Texas Department of Criminal Justice is required by law to provide the youthful offenders with specific educational opportunities including the option to attend school and participate in the GED and/or high school diploma program. Students may enroll in school for three, six, or nine hours daily and may work toward a GED, a high school diploma, or certification in a vocation such as computer maintenance, construction, carpentry, and stone masonry/bricklaying. Like the other programs, admission into vocational school is prioritized by age, length of stay, and eligibility. To explain further, older youthful offenders that will soon age out of the YOP will be given priority admission into the capacity-limited programs to ensure equal rehabilitation and educational opportunities. If a student obtains a GED or high school diploma, he is eligible to enroll in college level coursework and pursue an associate’s degree from Alvin Community College or begin vocational training in computer repair, desktop publishing, or web authoring.

Prior to participation in any educational program, each offender is required to attend a 10-day orientation that provides a detailed introduction to the available programs. The education orientation is entirely separate from the initial evaluation that each offender must undergo upon admission into the YOP.

3. Specialized Treatment
As soon as an offender enters the YOP, he is required to undergo an initial evaluation designed to assess his mental health status in order to address his individual needs. To address common problems in the juvenile offender population, the YOP requires a minimum of ten hours of structured treatment services per week including individual and/or group therapy sessions. Youthful offenders with special needs are assigned to programs such as the Mentally Retarded Offenders Program, Physically Handicapped Offenders Program, inpatient psychiatric care, and special security needs. Additionally, anger management, sexual deviance, and substance abuse treatment programs are available. Each treatment program holds ninety
minute sessions twice weekly for ninety days. The maximum capacity of each program is twenty offenders, which enables the facility to maintain an appropriate ratio between counselors and patients. If more than twenty offenders require the services of any given program, priority is given to older offenders.

4. Quality of Life

Although the majority of the offenders’ time is dedicated to education and specialized treatment, the YOP also allows time for recreational activities. The YOP has added structured activities such as educational games that focus on critical thinking, teambuilding, and social investment. Offenders are permitted to call family and friends, use e-mail and standard mail correspondence, and have visitation every week. In the adult population these privileges are behaviorally based and may be added or removed accordingly. However, YOP mandates that each youthful offender maintain these privileges irrespective of any behavioral violation. Further, the right to attend religious services and school cannot be taken away unless the youth commits a serious violent offense. In such cases, these privileges are temporarily suspended to protect the other juveniles and staff members.

When a juvenile becomes a threat to the physical health and safety of themselves, the other juveniles or staff as a result of a violent outburst, that juvenile is placed in administrative segregation or isolation. Administrative segregation consists of confinement in a one-room cell without human interaction for as long as twenty-three hours a day. Such conditions amount to long-term solitary confinement and have been shown to negatively impact their mental state. The YOP limits the use of administrative segregation as a last resort for behavioral modification.

Unlike other certified juveniles, juveniles certified for state jail felonies in Texas may not be sent to the YOP. State jail felony sentences range from 180 days to two years, and youth convicted of a state jail felony are sent to state jail facilities to serve their sentences. Unlike juvenile detention facilities, state jails are not equipped to handle large quantities of juveniles which often results in the juvenile being placed in administrative segregation to protect them from the older offenders and other certified juveniles. Specially tailored educational or rehabilitative services are not available for juveniles in state jails, leading to prolonged periods of isolation.

B. Texas Juvenile Justice Department

1. General Overview

As an alternative to certification, the prosecutor and juvenile court judge may elect to retain the offender in the juvenile system. If the offender is convicted of a qualifying offense and is not placed on parole, the offender
is given an indeterminate or determinate sentence and placed in the Texas Juvenile Justice Department. It is important to note that on December 1, 2011, the Texas Youth Commission was merged with the Texas Juvenile Probation Commission to form the Texas Juvenile Justice Department (TJJD). The proceeding discussion describes programming available under TYC; many of these programs will continue under the TJJD.

Upon commitment to TJJD, male offenders are admitted to the McLennan County State Juvenile Correctional Facility Unit I and female offenders the Ron Jackson State Juvenile Correctional Complex Unit I for initial assessment. The juveniles undergo a series of medical, psychological, and educational evaluations. Upon evaluation, the juveniles are placed at one of seven TJJD facilities that most appropriately meet the juveniles’ particular needs. Included in the decision-making process are the juveniles’ mental capacity, offense, need for programming, gender, and proximity to the juveniles’ home.

In order to effectuate a more accurate comparison to TDCJ’s YOP, this section of the report will focus on the Giddings State School facility which houses the capital and serious violent offenders and sexual deviants. The Giddings State School is located between Austin and Houston and houses juveniles who have committed the most serious offenses. The Texas Family Code permits a juvenile placed in a state juvenile facility to remain in the facility until the age of nineteen. The age of offenders placed in the Giddings facility ranges from ten to nineteen, but the dormitories and housing units are separated by age to account for the gap in emotional and maturity levels. The Giddings facility, as with all TYC facilities, emphasizes the continued education of offenders and offers a range of vocational studies, specialized treatment programs and promotes an atmosphere of dedication to rehabilitation.

2. Educational Opportunities and Specialized Treatment
The Giddings State School educational program gives students the opportunity to obtain a GED or high school diploma. Students who have earned a GED or diploma may enroll in college courses offered through Blinn Junior College. Students are also able to explore career options through the school’s Career Technology Educational Training Center, which offers vocational training in skills and trade to prepare students for employment after release. There are at least ten distinct trade programs available such as Computer Applications, Welding, Mill and Cabinet Making, and Auto Collision Repair.

In addition to the wide array of vocational programs, Giddings has partnered with the Texas Workforce Commission to create Project Rio-Y. This program uses the educational and vocational training acquired by the student while at Giddings and works to secure them employment opportunities upon their release. Project Rio-Y works by interviewing eligible offenders who have completed the appropriate levels of training
3. Specialized Treatment

While each TJJD facility offers rehabilitative programming, Giddings provides a variety of specialized programming including the Capital and Serious Violent Offenders Program (CSVOP) and the Sexual Offenders Treatment Program (SOTP) among others. The Giddings State School operates the CSVOP for juveniles who commit murder, capital murder, and offenses using force or a deadly weapon. The program is designed to help these youth understand the reasons and emotions behind their violent behavior, and identifies alternative ways to respond to those emotions when faced with similar situations in the future. Participants in this program are required to reenact their crime and play the role of the victim. The victim role-play enables the offender to conceptualize the trauma suffered by their victims allowing them to gather a greater perspective of the consequences resulting from their actions.

Participants in SOTP are counseled both individually and in group sessions on their sexuality, fantasies, and deviant patterns which contributed to the youth’s behavior or offense. It is often found that these youth have been victims of sexual abuse themselves, and this program offers trauma resolution therapy to deal with those issues.

4. Quality of Life

The Giddings facility was originally designed as a home and school for runaway boys. The secure facility has an open layout and residential feel creating a less restrictive environment than that of YOP. The culture of the staff at Giddings is dedicated to the successful rehabilitation of each offender. There are numerous behavioral incentives incorporated in the daily life of the offenders. Much like the COURAGE program at the YOP, there are behavioral levels with increased privileges and responsibilities at each level. When a youth reaches the highest level at Giddings, the students may participate in organized sports teams, namely football and basketball. Members of the football and basketball teams are given special permission to travel outside of the facility to play other local teams. As this is considered among the highest privileges awarded, there are numerous behavioral and academic requirements that must be achieved and then maintained, prior to and during participation.

In addition to the sports programs, several activities are organized at
Giddings each year that are designed to incorporate family visitations and community involvement. A component of the rehabilitation process is successful reintegration into society. The majority of the offenders at Giddings will be released without ever entering into TDCJ. As a result, the staff at Giddings encourages the juveniles to commit to rehabilitative efforts and take advantage of each program offered to the students. The attitude of the staff in combination with the age of the offenders contributes to a positive atmosphere that facilitates growth and a propensity for rehabilitation.

V. CONCLUSION AND POLICY RECOMMENDATIONS
The juvenile justice system and the adult criminal justice system fundamentally differ per their primary purpose in treating offenders. The juvenile justice system focuses mainly on rehabilitation, extensively evaluating each juvenile offender and placing him or her in specialized treatment programs designed so that each offender receives individualized treatment according to his or her needs. The adult criminal justice system is limited in its ability to rehabilitate juvenile offenders due to the location of the YOP and lack of specialized treatment available. The YOP is located within an adult prison facility, causing the youthful offenders to cope with an atmosphere that focuses primarily on punitive measures.

Additionally, the juveniles in the YOP can be negatively influenced by the older inmates despite their efforts to remain segregated. Juveniles in TJJD facilities are surrounded by other offenders similar in age and a staff with extensive training and experience. This allows the TJJD to promote positive change by creating an atmosphere more conducive to rehabilitation. Finally, juvenile certification rates across the state vary according to the severity of the crime, ethnicity of the offender and the county where the juvenile offender is located. There are marked discrepancies in the number of African American juveniles certified versus their percentage of the total juvenile population. Where a higher percentage of juvenile African Americans are certified compared to their population, Anglo juveniles are disproportionately underrepresented in certifications compared to their total population. Statewide statistics regarding certifications by county indicate a lack of consistency or standard regarding adult certifications. A few of the more populous counties certify a large number of juveniles each year, while other counties with similar demographics certify fewer than two juveniles each year.

THE FOLLOWING RECOMMENDATIONS ARE MADE:

1. New location for the Youthful Offender Program
The Giddings facility attributes a large portion of its success to the layout of the facility. Although the facility is secured, the facility is set up like a school campus with dormitories, a chapel, and a cafeteria all surrounding
the educational buildings. The juveniles are referred to as “students” and the youth are required to attend school allowing the emphasis to be placed on education and rehabilitation. The Youthful Offender Program should be removed from within the adult prison and relocated to a separate facility. This will allow the juveniles to focus on education and rehabilitation in addition to removing the threat of negative influence from adult inmates.

2. Fewer certifications, more determinate sentences
The TJJD provides a vast array of specialized treatment programs that provide juveniles with the individualized care needed to foster successful rehabilitation. The rehabilitative limitations of the YOP suggest a strong preference for juveniles to be given a determinate sentence as an alternative to adult certification. With this approach, the juvenile will have access to the rehabilitative programs available in TJJD, with the possibility of transfer to the adult system if the juvenile proves to be unamenable or uncooperative. The threat of ultimate incarceration at TDCJ will encourage the juveniles to work towards successful rehabilitation.

3. Statewide standard for adult certification
The statewide statistics regarding adult certification reveal inconsistencies in the number of juveniles certified by county, severity of the offense, and ethnicity of the offender. These statistics signify a need for a statewide standard that provides a more detailed format than the factors listed in the Texas Family Code, and a more consistent application of the certification process must be implemented.
JUVENILE MENTAL HEALTH
JUVENILE MENTAL HEALTH

The State of Texas currently has a population of more than twenty-five million people, including nearly seven million children. Of these, as many as one in five will have some form of mental illness during their childhood. However, many will never have their illness diagnosed and those that do may not get the treatment they need. For example, each year in Harris County alone, it is estimated that nearly 20,000 children will need help from the public mental health system but only 5,000 may actually receive the care they need. Often, the juvenile justice system is the first place that a child will have his or her mental illness diagnosed. Many children in the juvenile justice system have mental illnesses, and mental health services now make up an essential part of the juvenile justice system. In fact, the juvenile justice system is the largest provider of mental health services for Texas’ youth.

This section will examine some of the mental health services available in the juvenile justice system in various regions of the State of Texas. It will look at the recent policy shift from SB 653 (2011) and will provide policy recommendations based on observations of what is currently available and what is still needed in Texas. Among its findings are a range of services that vary county by county and an evolving sense of how to more effectively treat mental illness and its frequently co-occurring counterpart, substance abuse.

I. BACKGROUND INFORMATION

Before looking at what is available throughout the state, it is important to discuss how mental ailments are diagnosed. The following exams and scales are methods frequently used by intake facilities and officials in the juvenile justice system to determine whether or not a juvenile may require treatment for a mental illness.

A. Maysi-2 Exam

The Massachusetts Youth Screening Instrument Second Version (MAYSI-2) is used by all juvenile detention centers under the Texas Juvenile Justice Department (TJJD) to screen youth for mental health disorders. Texas law requires that the MAYSI-2 be given to youth in detention facilities within the first 48 hours of detention. If a juvenile refuses to take the MAYSI-2, the facility must make a chronological note of the time of refusal to remain in compliance.

The MAYSI-2 screens juveniles for mental health risks and features seven scales to measure possible mental health issues: 1.) Alcohol/Drug, 2.) Angry-Irritable, 3.) Depressed-Anxious, 4.) Somatic Complaints, 5.) Suicide Ideation, 6.) Thought Disturbance (only measured in boys), and 7.) Traumatic Experiences. The test contains 52 yes/no questions and takes approximately 10 minutes to administer. Because MAYSI-2 can help measure some of the risk factors for suicide, early administration of the test is essential. Although Texas law requires that the test be administered in...
the first 48 hours a youth is detained, MAYSI-2 test creators recommend administering the test within the first 2 to 4 hours provided that the juvenile is in an appropriate emotional state to take the test.\textsuperscript{335} Staff at juvenile detention centers can then craft a plan to treat a youth’s mental illness based on the scores of the seven scales. For youth at a higher risk of suicide, emergency measures may be required.

**B. Children’s Global Assessment Scale**
The Children’s Global Assessment Scale (CGAS) is another commonly used assessment which measures mental disturbance in juveniles based on a 1 to 100 scale that has been adapted from the Global Assessment of Functioning. Scores of seventy-one and higher indicate normal functioning with only mild anxiety or other emotional distress that might be expected in response to events such as an exam or other stress.\textsuperscript{336} Scores from fifty-one to seventy indicate mild to moderate symptoms of mental and emotional disturbance that may result in truancy or petty theft, but a juvenile would in many circumstances appear normal to someone who does not know the juvenile.\textsuperscript{337} Juveniles who score fifty or below on the CGAS are at high risk of exhibiting behaviors that may bring them into contact with the juvenile justice system. These juveniles are at risk for suicide attempts and severe anxiety.\textsuperscript{338} They are also more likely to exhibit highly antisocial behavior, including aggression toward others even without provocation or instigation.\textsuperscript{339} Juveniles who score below fifty on the CGAS are good candidates for juvenile mental health courts or special needs diversionary programs as their aggressive behaviors may be more effectively dealt with through treatment rather than incarceration.

**II. SERVICES OFFERED BY THE JUVENILE JUSTICE SYSTEM THROUGHOUT TEXAS**
The following pages contain examples of mental health services offered at various locales in the juvenile justice system throughout Texas. This list is not exhaustive, but will give the reader a good idea of what a juvenile can expect at various points in the juvenile justice system. The flow chart presented on pages 58-59 provides a visual depiction of when a juvenile might receive mental health services in the juvenile justice system.

**A. GREATER HOUSTON**

1. **Clemens Unit**
The Clemens Unit is an adult prison in Brazoria County serving male prisoners with a capacity of 894 units.\textsuperscript{340} The Youthful Offender Program (YOP) is housed at this unit. At the time of publication, the Clemens Unit had 363 total employees, as well as fifteen medical and three psychiatric staff to serve prisoners with mental health and other medical needs.\textsuperscript{341} All participants in YOP receive a forty-five minute to one hour-long mental health assessment when admitted to the Clemens Unit.\textsuperscript{342} The unit notably
features the COURAGE (Challenge, Opportunity, Understanding, Respect, Acceptance, Growth and Education) program for male offenders ages fourteen-seventeen. The program offers three different levels through which young offenders may progress to earn certain privileges: “Sparrow,” “Hawk,” and “Eagle.”\textsuperscript{343} The program also has a level to which youthful offenders may regress, called “broken wing.”\textsuperscript{344} All youthful offenders at the Clemens Unit have been certified and tried as adults or are Young Adult Transitional Offenders (YATO’s) above the age of eighteen who have been transferred from TYC.\textsuperscript{345}

COURAGE participants and other youth transferred into the Clemens Unit from TJJD face obstacles in receiving mental health treatment. Some youth who had previously been medicated for ADHD, bipolar disorder, and depression may not receive appropriate medication for these illnesses.\textsuperscript{346} Youth are given a thorough assessment upon entering the YOP in order to develop an individual treatment plan for the youth. This assessment includes identifying mental health risks such as bipolar disorder. However, medication will not be given unless a family physician or TYC provides information on the juvenile’s medication history to the University of Texas Medical Branch staff who are contracted to work with the Clemens Unit.\textsuperscript{347} Bureaucratic red-tape and administrative hurdles can thus delay the time a juvenile receives proper medication, increasing the chances of an occurrence of a mental health related incident.\textsuperscript{348} In some cases, youth may be unable to receive any medication at all.

The delays, and in some cases denial of medication have costly implications for the youth as well as Texas taxpayers. Youth who do not receive medication are more likely to attempt an assault on a staff member due to their mental illness.\textsuperscript{349} Unfortunately, these assaults are included in the juvenile’s permanent files making it more likely that parole would be delayed. Consequently, Texas taxpayers end up paying for lengthened incarceration times which could have been easily prevented by early treatment.

2. Harris County Juvenile Mental Health Court
The Harris County Juvenile Mental Health Court (Harris County JMHC) was established in 2009 to serve juveniles ages ten to seventeen whose mental health problems may have been a contributing factor in committing their offense.\textsuperscript{350} The Harris County JMHC is a referral-based, voluntary, pre-adjudication program for juvenile offenders and their families that allows juveniles to use community-based treatment options rather than incarceration in the juvenile justice system.\textsuperscript{351} All participants must be between ten and seventeen years old, have a misdemeanor or felony criminal charge, and must have a family willing to engage in an in-home treatment program. Sex offenders, offenders with serious substance abuse issues, and those with mental retardation are excluded from participation in the program.\textsuperscript{352}
The Harris County JMHC features a mental health court team that includes a juvenile court judge, probation officers, clinical psychologists, and additional staff that are case appropriate. Court is held in the afternoon so as not to interfere with the participants’ education. Participants also meet with a probation officer at least once a week at home or in school. Participants typically remain in the program for about eight months and may have their initial charges dropped and records sealed so long as they complete a defined period of time without engaging in delinquent conduct.  

As of 2010, the participants in the Harris County JMHC had a much lower recidivism rate than juveniles referred to TYC. The Harris County JMHC featured a 33% recidivism rate. 353 Juveniles referred to TYC in Harris County had a 56.8% recidivism rate in the same fiscal year. 355 There is a financial benefit to using the Harris County JMHC as well. It costs approximately $150 per day per participant to operate the Harris County JMHC as opposed to $270 per day per juvenile to utilize a juvenile detention facility. 356 The Harris County JMHC needs further study, but the early returns weigh heavily in favor of the specialized court over regular adjudication.

The following chart is a sketch of the Harris County juvenile justice process from detention to conclusion. Across Texas, similar programs and systems are in place though significant differences may be found – for instance, the Harris County Juvenile Mental Health Court (JMHC) is a pre-adjudication, co-educational program whereas Bexar County’s Crossroads Court Program works solely with pre- and post-adjudicated girls. 357 Some large counties in Texas, such as Tarrant, do not have a JMHC at all.
i. Case Study: A Day on the Mental Health Docket of the Harris County JMHC

Juvenile Mental Health Dockets operate much differently than cases one might see in another civil or criminal court. The prosecutor and defense attorney do not make separate arguments from different tables, and the judge does not rule on motions over the rules of evidence. Instead, the judge, the juvenile, the juvenile’s parent or guardian, the court psychologist, probation officers, and the assistant prosecutor each sit around a table to discuss the juvenile’s progress over a given interval.\(^{358}\)

The docket typically begins by having the court psychologist ask the juvenile questions regarding their progress over the period of time since the juvenile’s last court visit. Questions would often center around the activities a child was doing during his summer break when the structure of school and classes was unavailable to them. Juveniles making progress in the program often found activities to do during the summer, such as helping the neighbors take out the trash or getting a part-time job. Juveniles struggling with the program complained of boredom and did not find productive uses of their time.
A juvenile’s parent or guardian also participates in the docket. The parent’s involvement is essential to a child’s success, as it is the parent who must get the child to court, ensure that the child makes it to counseling sessions, and acquire the medication that the child must take on a regular basis. In one case, problems arose when a parent was reluctant to enroll her child in a government program, namely Medicaid, because of her immigration status. The child was unable to receive his medication, struggled to make progress, and engaged in additional delinquent behavior that may have been a consequence of his mental illness. Children of parents who embrace the goals of the program typically perform better and achieve their goals.

The judge’s role in the juvenile mental health docket differs from his role in a traditional docket. The judge noted that in a traditional docket, his role was to ensure that the adversarial system functioned properly. He would not have the opportunity to get to know a child, given the attorney’s role and the volume of cases he hears. In the mental health docket, the judge stated he acts as more of a partner to children in the system. He helps them set goals for each period, such as doing chores around the house, drafting a paper, or
When participants reach their goals, he can reward them – often by granting them a greater period of time before they next appear in court. The ultimate reward upon successful completion of the program is to have the charges dropped. The judge will also admonish juveniles who do not accomplish their goals and make sufficient progress for a period. His admonitions impress the need to buy into the program, or else the child will be placed in detention. He also noted that a juvenile that has turned seventeen will face charges in the adult criminal system if they re-offend.

Children who go through the docket often undergo behavioral changes that would be easily visible to an observer who might have a chance to see them from docket to docket. Children may start out quiet and reluctant to speak or may exhibit extreme aggressive behaviors toward a relative. As they progress, they are often visibly happier and more likely to speak with court officials. Aggressive behaviors go away and a normal child, without the permanent stigma of a formal adjudication, emerges from the court.

3. Harris County Juvenile Drug Court

Harris County started its first juvenile drug court in the summer of 2010. The 315th District Court heard the first case in July 2010 as part of the Sobriety Over Addiction and Relapse program (SOAR). To participate in the program, an offender must be a non-violent substance abuser who faces incarceration after being adjudicated for felony or misdemeanor charges. Prosecutors, defense attorneys, and the child’s family must all agree to the child’s participation in the program.

Participants in the SOAR program must undergo counseling for substance abuse issues and, after successful completion of the program, can have their juvenile records sealed. The most common substance treated in the SOAR program is marijuana, but juveniles who have abused cocaine and prescription drugs such as Xanax are also treated. The SOAR program does not actively look for juveniles with mental health issues, but also does not shy away from those with both substance abuse and mental health issues. Juveniles who have a dual diagnosis of substance abuse and mental health issues can participate in the program so long as they have not committed a disqualifying violent offense such as armed robbery. Dually-diagnosed juveniles go through substance abuse treatment, but also must take appropriate medication for their mental illness and must regularly see a psychiatrist or other mental health professional as needed.

The Harris County Juvenile Drug Court recently celebrated its first graduating class in the first half of 2011. As of the time of publication, there has not been enough time to adequately examine recidivism data and long-term trends for those who have mental health issues who participate in the court. If the court matches national trends, however, Harris County can expect to pay less for incarcerating juveniles for minor offenses and can look forward to more productive youth moving past mental illness and substance abuse.
4. Fort Bend County Juvenile Probation Department

From 2000 to 2009, Fort Bend County was one of the twenty-five fastest growing counties in the United States. During this period, it added more than 200,000 people and now has more than 170,000 children. In the coming decade, if current growth patterns hold, Fort Bend County may have an overall population greater than one million people. The Fort Bend County Juvenile Probation Department is aware of this growth and actively takes steps to ensure that juvenile offenders receive the services they need to become productive citizens.

Fort Bend’s Chief Juvenile Probation Officer emphasizes the importance of early screening so that children can avoid entering the juvenile justice system at all. The department sends probation officers into Fort Bend middle and high schools for children who have truancy violations to see that these children are regularly attending school. Repeat truancy violators often lose the structure at school and are at much higher risk of committing more serious offenses in the future.

Fort Bend’s juvenile intake also serves as a “default” mental health hospital for many children in Fort Bend County. Upon entering the facility, children are given the MAYS1-2 within one hour of intake. Youth who are at risk for mental health disorders are given subsequent screenings based on their MAYS1-2 scores. In 2010, there were 2,570 total referrals to the Juvenile Probation Department, down from 3,111 in 2002. Staff at the detention center estimate that at any given time, roughly 30-40% of children processed through intake have some sort of mental health issue. Staff expect that number to rise as they treat more children due to the growth in Fort Bend County.

B. West Texas And The Panhandle

1. Texas Juvenile Justice Department Ron Jackson I Unit

The Ron Jackson I Unit, located in Brownwood, Texas, handles all girls who enter TJJD, formerly TYC. It is the westernmost secure facility offered by TJJD in the State of Texas. All girls undergo orientation and assessment at Ron Jackson I before being placed at a permanent site. The majority of girls will remain at Ron Jackson I to receive specialized treatment tailored for female offenders. Pregnant girls will be sent to the WINGS program in San Antonio to learn parenting skills.

Upon arrival at the Ron Jackson I Unit, girls are given the MAYS1-2 assessment test. Girls whose MAYS1-2 scores indicate a likelihood of mental illness will subsequently be given the Adolescent Self-Assessment Profile II (ASAP II). Ron Jackson I has a mental health treatment program for all girls requiring treatment. Roughly 75% of girls at Ron Jackson I will require treatment and medication for a mental health issue, although very few have mental health issues severe enough that they cannot participate in general activities. ADHD and bi-polar disorder are among some of the more
common ailments reported by the unit. More severe ailments, such as schizophrenia and psychotic disorders, have also been reported but are less frequent.

C. Dallas/Fort Worth Metroplex

1. Dallas County Juvenile Mental Health Court

Following the creation of several juvenile mental health courts throughout the State of Texas in the mid- to late 2000’s, CHILDREN AT RISK co-authored an op-ed with the Hogg Foundation for Mental Health and the Dallas County Juvenile Department in the Dallas Morning News proposing that such a court be established in Dallas County. The proposal intended to plug a gap that existed in the second most populous county in Texas. The Dallas County Juvenile Department set a goal to establish a juvenile mental health court in Dallas by the end of summer 2011.

The Dallas County Juvenile Department met its goal to establish the Juvenile Mental Health Court. The court program began on July 19, 2011 and is a pre-adjudication program targeting first-time offenders. As of November 2011, twelve youth were being served by the court however the target goal is to serve up to twenty-four youth, with the goal of reducing recidivism rates among first-time offenders.

The court is staffed by existing members of the Dallas County Juvenile Department and juvenile probation officers who work with Dallas’ Front End Diversionary Initiative (FEDI) program that deals with offenders with mental health issues post-adjudication. Although these staff members are highly experienced and well-equipped with the necessary experience to staff the court, the court program is an additional time commitment that they have taken on in addition to their existing workload. Thus, additional funding is needed to hire staff members solely for the court team.

The Dallas County Juvenile Mental Health Court team is comprised of a judge, the prosecutor, and a mental health coordinator. The program features three phases of treatment followed by an aftercare program. During the first phase, a child participating in the program sees a probation officer weekly at school and at home. The child also attends court on a weekly basis during the first phase and a family functional therapist visits the family twice a week to conduct treatment. Meetings with the probation officer and with the court taper off in the next two phases and meetings with the family functional therapist decrease as the child’s behavior improves. Each of the first three phases lasts a minimum of 30 days followed by an aftercare phase lasting a minimum of four weeks.

The ultimate goal of the court is to provide children with mental health disorders the treatment they need at a much lower cost to taxpayers. Court programming typically costs less than the alternative of incarceration and reduce recidivism rates by treating family issues that go unaddressed in a secure facility. This development may likely prove to be a model for future success stories in the Metroplex and throughout Texas.
2. Letot Center
The Letot Center, as part of the Dallas County Juvenile Department, has been serving the needs of runaway youth in Dallas County and their families since the Center opened in 1979. Operating on a combination of private and public funds, the Center provides co-educational residential and non-residential services. In Dallas County, over 9,000 youth are processed as runaways annually; in 2009, Letot served approximately 2,287 youth and their families. The Center’s focus on at-risk youth means that the population it serves is more likely to enter the juvenile justice system than youth in the general population. One of those risk factors is unmet mental health needs.

In 2009, 64% of the youth served had a prior arrest, 63% had engaged in drug or alcohol use, 88% were truant from school and 51% had been abandoned by their parent(s). Additionally, 34% have contemplated suicide and 9% have attempted it. A youth who is brought to the Letot Center by their parents, the police, or of their own volition is processed and given a risk assessment evaluation. The majority of youth are released to their parents with individualized treatment plans and support services, however the Center has eight beds available for youth awaiting disposition, as well as a residential shelter. The average stay at the Center’s shelter is twenty-four days.

In FY2010, the shelter housed 368 youth and provided them with a variety of programs and services aimed at reducing their risk factors, including mental health programs such as suicide and depression screenings, psychological testing, and psychiatric consultations. In FY2010, 81% of the youth who spent time in the Letot shelter required psychiatric services.

3. Henry Wade Juvenile Justice Center
The Dallas County Juvenile Detention Facility is housed in the downtown Dallas area. The secure detention facility is one of the largest in the state. The twenty-four hour intake process includes the administration of the MAYSI-2 test, and medical staff is on-site. However, juveniles with serious mental health issues are transported to a contracted area hospital for care. Youth who are not transported elsewhere and remain in detention have the opportunity to participate in programming such as school during the regular school year, art, recreation, reading and leadership courses.

The detention facility houses pre-adjudicated youth who are detained for a probation violation. The facility is part of a larger complex that accommodates the juvenile court so that youth who are brought in do not need to be transported from the facility to be seen by a judge.

4. Corsicana Residential Treatment Center
The Corsicana Residential Treatment Center (Corsicana RTC) located approximately sixty miles south of Dallas, is a high security facility that houses adjudicated juvenile males who “evidence mental illness or serious emotional disturbance.” Corsicana RTC is the main provider of treatment
for juvenile males with serious mental health problems who are incarcerated in the juvenile justice system. Juveniles at Corsicana must have emotional disorders stabilized so that they can understand and correct their delinquent conduct. All juvenile females, including those with mental health issues, are housed at the Ron Jackson I Unit in central Texas, approximately 130 miles southwest of Fort Worth.

The 2011 TYC-TJPC merger resulted in the closing of three facilities. As a result, youth with less serious mental health problems that had previously been housed at the Al Price or Crockett facilities were introduced to the remaining facilities including Corsicana RTC between June and September 2011. Corsicana RTC has a 187 bed capacity. In July 2011, 148 youth were being served, up from 128 in 2010. At least eighty-two unique mental illnesses or emotional disturbances are accepted for treatment at Corsicana RTC such as five types of schizophrenia, four types of dissociative disorders, and three types of anxiety related disorders. As of 2010, the average length of treatment was 249 days. The following chart depicts the 2010 re-arrest and re-incarceration rates of juveniles who were housed at Corsicana RTC.

5. V.O.I.C.E.S. Program (Van Zandt County)
Van Zandt County, located southeast from Dallas, features the Vocational Occupational Initiatives Creating Employment (V.O.I.C.E.S.) program as an early intervention program serving youth at “high risk” of committing a crime. The program services 120 juveniles per year who meet with counselors on a weekly basis. Licensed mental health and substance abuse counselors help high-risk juveniles with problems and seek to provide structure for youth who might otherwise commit crimes and end up incarcerated in the juvenile justice system. The program serves as a good example of what rural counties, specifically those with a population of less than 100,000 people, can provide to juveniles who may have mental health and substance abuse problems.

D. Greater Austin And San Antonio
1. Giddings State School
The Giddings State School operates as a high-security facility serving boys who enter TJJD. Giddings treats juveniles who have committed violent offenses and provides them with schooling, including a path to obtain their GED, high-school diploma, and even some college classes in association with Navarro College. Juveniles who come into Giddings are given a thorough assessment and receive appropriate medication after seeing a doctor.

Recently, Giddings has been faced with an influx of new students who have arrived from the recently-closed Crockett State School. Crockett formerly handled juveniles within TYC who have moderate mental health disorders. Giddings will now treat juveniles from Crockett with less severe mental health disorders, while those with more severe disorders will go to Corsicana. Some
students at Giddings have expressed concern that the influx of new students from Crockett may disrupt the unique and effective culture at Giddings, as they fear that juveniles with lesser sentences will not have the incentive to embrace the treatment and educational opportunities offered by Giddings.\textsuperscript{415}

\textbf{E. Rio Grande Valley}

\textit{1. Hidalgo County Special Needs Diversionary Program}

The Special Needs Diversionary Program in Hidalgo County, Texas (Hidalgo SNDP) works with mental health professionals in the Rio Grande Valley to help remove juveniles with mental health issues from the juvenile justice system. Texas Tropical Behavioral Health works in coordination with the juvenile probation department to ensure that youth in the area receive treatment in a culturally sensitive manner.\textsuperscript{416} Juveniles participate in the program under deferred prosecution and all participants do so voluntarily.

The Hidalgo County SNDP features two probation officers who handle a caseload of twelve to fifteen juveniles per officer. Juveniles who meet criteria may enter the program based on recommendations from the probation department, and must agree to do so voluntarily. Approximately seventy to eighty percent of all juveniles who go through the Hidalgo Juvenile Probation Department have a mental illness that qualifies them for the Hidalgo County SNDP.\textsuperscript{417} Some of the more commonly seen mental illnesses in the Hidalgo County SNDP are ADHD, emotional disturbance, and oppositional behavior. Youth with mental retardation are not eligible for SNDP services and are referred to the Hidalgo County Mental Health Mental Retardation Center.\textsuperscript{418}

The voluntary aspect of the program is considered essential for its success, based on the premise that effective treatment of mental health problems can only occur when a child and his family have accepted that there is an issue requiring treatment.\textsuperscript{419} Juveniles meet with mental health officials and their probation officers three to five times per week over a course of four to six months for effective treatment.\textsuperscript{420} Officials work with the youth and their family to ensure that the family environment that may have triggered problems changes as well. Roughly ninety percent of all juveniles who participate in the Hidalgo County SNDP also receive counseling for some form of substance abuse problem.\textsuperscript{421} Officials who work with juveniles in the program have indicated a high success rate for those families that fully commit to treating mental health, substance abuse, and family environmental issues that may have contributed to delinquency.\textsuperscript{422}

One limiting factor of the Hidalgo SNDP is the limited number of resources that county workers have to treat offenders with mental health issues. Probation officers can only work with twelve to fifteen juveniles at a time and the time in the program usually ranges from six months to a year. As a result, many juveniles are placed on a waiting list for proper treatment in the program.
III. OUT OF STATE PROGRAMS

The wide range of possible alternatives to traditional justice systems is not only exhibited within Texas, but in programs across the country. In 2010, there were approximately 50 JMHCs in the United States; including the Dallas JMHC established in 2011, five of the nation’s JMHC’s are located in Texas.423 It is useful to approach emerging juvenile justice mental health initiatives in Texas as part of the national growth of issue specific courts.

A. California

The first juvenile mental health court in the country began in California with the hope that such a court would be better able to address the unmet mental health issues that were driving some juvenile delinquency. “As many as three million children or 20% of California’s youth will experience a mental health disorder in any given year.”424 In 2005, California had 61,161 juvenile felony arrests and 126,620 juvenile misdemeanor arrests.425 These numbers are a clear indication that California will benefit from having mental health programming built into the juvenile justice system.

1. Santa Clara County

Santa Clara County, containing San Jose and a significant portion of Silicon Valley in the San Francisco Bay Area, established the first juvenile mental health court in the country in 2001. Santa Clara County’s Juvenile Delinquency Mental Health Court – Court for the Individualized Treatment of Adolescents (CITA) began in 2001 and relies on general state funds as well as state funds specifically allocated to mental health.426 Today, its docket has 51-100 cases per year and is composed of misdemeanors, misdemeanor probation violations and non-violent felonies.427

CITA relies on a team of legal and psychological professionals to develop unique plans for participants to follow.428 CITA is a post-adjudication program that offers participants the possibility of having charges against them dismissed upon successful completion of the program. While there is no minimum or maximum length of programming, the average program lasts between six months to one year. Juveniles who fully participate in the program may be rewarded with a graduation ceremony, praise from the judge, and a longer length of time between court appearances. Youth who choose not to participate fully may be fined, jailed, expelled from the program, require home visits or face a range of other potential sanctions.429

2. Alameda County

Alameda County, containing Oakland and the East San Francisco Bay Area, created a Juvenile Mental Health Court in 2007.430 The court is post-adjudication and participation is voluntary.431 From its inception in 2007 until 2009, the court served thirty-four youth, 50% of whom were African American, 20% Caucasian, 15% Hispanic and 9% Asian.432 Sixty-five percent of participants were male and ages ranged from twelve to eighteen.433 The
average length of participation was thirteen months. Almost ninety percent of all the youth and their families were beneath 200% of the Federal Poverty Level.

In addition to the individual participating youth, support is provided to families through a collaborative services program. Each family has a seven member Multidisciplinary Team (MDT) involved in creating and enforcing compliance with a specific, individualized treatment program. The team includes the judge, a detention center-based mental health clinician, an Alameda County Juvenile Collaborative Court (ACJC) contracted case manager, an ACJC probation officer, a civil legal services advocate who assesses the family’s particular needs, a defense counsel advocate, and the district attorney.

“Probation officers often serve as the primary liaison to the youth and family during participation in the ACJC.” Civil advocates provide legal assistance to families in the ACJC program with legal challenges unrelated to the juvenile justice proceedings. Civil advocates stabilize families, ensure youth have access to Medi-Cal, the primary funding source for mental health services in the state, enroll eligible youth in special education services and confirm that their individualized education plan (IEP) adheres to state and federal law.

Between 2007 and 2009, thirty-three Alameda JMHC participants were analyzed. Eleven did not spend any time in detention while in the program. While participating in the program, ten of the thirty-three had a total of eleven sustained offenses and another three had sustained probation violations but no new law violations.

B. Ohio – Crossroads Program
Crossroads is a joint juvenile drug and mental health court located in Summit County, Ohio which comprises Akron and some of the outer suburbs of Cleveland. Crossroads recognizes that substance abuse and serious mental health issues often go hand-in-hand, but does not require dual diagnosis of substance abuse and mental health issues of every offender – juveniles need only one of the two to qualify for treatment from the program. However, nine out of ten offenders treated by Crossroads will have dual diagnosis of substance abuse and mental health problems.

To be eligible for the Crossroads program, a juvenile must be between twelve and eighteen years old, have been diagnosed with a mental health and/or substance abuse issue, and must have family participation in counseling sessions. Juveniles are referred to the program by the Summit County prosecutor or juvenile court magistrate who hears the juvenile’s case. The juvenile will then go through four phases that the Crossroads program requires.

In the first phase, juveniles begin treatment for substance abuse and mental health related issues by submitting to a mental health evaluation and taking random drug tests. The juvenile meets with a judge or magistrate
once per week and must complete certain assessment instruments. To successfully move from phase one to phase two, a juvenile must take all required medications, comply with all court orders, and pass every drug test that is given to them among other requirements.\textsuperscript{445}

In the second phase, the juvenile only meets with the judge every two weeks and must continue to take all medications and comply with all court orders.\textsuperscript{446} Improvement in the home and at school is essential to advancement from each phase. In phase three, the meetings with the judge drop to once every three weeks and a juvenile must conduct a job search if they are old enough.\textsuperscript{447} Juveniles must not relapse either by taking drugs or by failing to take required medication through all phases in order to pass. The fourth and final phase involves successfully holding down a job (where age appropriate) or increased community involvement through volunteer activities.\textsuperscript{448} The first two phases generally last one and two months respectively. Afterwards, maintenance of progress is essential and the timeline to graduation from the Crossroads program varies.

Caseworkers at Crossroads emphasize the importance of treating substance abuse and mental health problems together. Substance abuse and mental health issues frequently co-occur and mental health problems often are a trigger for abusing drugs and alcohol. Understanding how mental health and substance abuse problems relate allows juveniles to be more effectively treated. Caseworkers also emphasize the importance of flexible scheduling on the part of the court for successful treatment of juveniles. Dockets are held at “odd” times so that parents and children will not be forced to make the choice of attending school and work or attending court.\textsuperscript{449} Ohio funds the Crossroads court as part of its RECLAIM (Reasonable and Equitable Community and Local Alternatives to the Incarceration of Minors) Program. Presently, Crossroads has received more funding from RECLAIM than any other program in Ohio due at least in part to its recognition of the co-occurrence of substance abuse and mental health problems and its high rate of success.\textsuperscript{450}

\textbf{IV. CONCLUSION AND POLICY RECOMMENDATIONS}

Texas cities and counties offer a variety of services for juveniles. These services have become increasingly wide-ranging from county to county and region to region, as each area has tried to adopt methods to deal more effectively with juvenile mental health concerns. Texas has made great strides in recent years as it has adopted juvenile mental health courts and special needs diversionary programs that focus on treatment in the community over incarceration for juveniles. The recent passage of SB 653 suggests that Texas, at least as a matter of stated policy, will continue progress toward keeping juveniles within their communities for effective treatment and avoid unnecessary incarceration. It remains to be seen whether legislators will appropriately fund programs at the county and community level to provide mental health services.
Based on the research for this study, this publication has the following policy recommendations regarding juvenile mental health. Many of these could be achieved at minimal cost to Texas taxpayers in the short-term and most could provide long-term savings to Texas taxpayers as well.

**THE FOLLOWING RECOMMENDATIONS ARE MADE:**

1. **Evaluate the progress of the Dallas Juvenile Mental Health Court**
   
The Dallas Juvenile Mental Health Court program began in July 2011. Comprehensive program data, such as recidivism, is therefore not yet available. In order to ensure that the program continues successfully in the long-term, it is important to monitor the successes and challenges in the short-term. Juvenile mental health courts are tailored according to the individual needs of the particular county, and by regular evaluation of program outcomes, the Dallas Juvenile Mental Health Court can be successfully tailored into a sustainable program.

2. **Create a Juvenile Mental Health Court in Tarrant County and other large counties in Texas**
   
The recent creation of a juvenile mental health docket in Dallas County is an exciting development for the Dallas/Fort Worth Metroplex. However, Dallas County contains less than one-third of the total population of the DFW Metroplex. Unlike the Harris County JMHC, which can potentially serve two-thirds of Greater Houston, the Dallas JMHC will be limited by its county jurisdiction. To ensure that juveniles in the Metroplex have similar opportunities as juveniles elsewhere in Texas, a juvenile mental health docket should be opened in Tarrant County. Tarrant County is the third most populous county in Texas and is roughly three times the size of the next smallest county in Texas that does not currently feature a juvenile mental health docket.

A juvenile mental health docket in Tarrant County would not require large amounts of additional resources. We have seen from the Crossroads model in Ohio that mental health issues and substance abuse problems can effectively be dealt with in one court. Officials at Crossroads Ohio argue that, because mental health and substance abuse problems co-occur frequently, it is best to look at mental health and substance abuse as part of one broader issue. Tarrant County already features a juvenile drug court that recognizes that youth confronting substance abuse problems already have other issues in their lives. The court could accept youth with mental health diagnoses who have not necessarily had substance abuse issues. This would ensure that youth with mental health problems who have not abused drugs or alcohol would have a chance at effective mental health treatment without the stigma of a permanent record.

In addition to Tarrant County, juvenile mental health courts should be
expanded to other highly populated counties in Texas, such as Hidalgo, Fort Bend and Montgomery Counties. Existing juvenile mental health courts can serve as a blueprint for establishing courts in these counties, and the court program can then be tailored according to the particular county’s needs and resources available.

3. Provide adequate funding for mental health services and juvenile mental health courts
Without adequate funding, children suffering from mental illness will not have access to the quality care they need and will continue to cycle through the juvenile justice system. By underfunding our mental health services, our emergency rooms, juvenile justice system, and other taxpayer-funded programs will continue to bear the brunt of the costs. County mental health departments should advocate for and provide mental health services for juvenile mental health courts. County juvenile probation departments should explore a variety of funding sources in addition to reallocation of existing resources to implement juvenile mental health courts in their jurisdiction. The State of Texas should, at a minimum, sustain current funding levels for juvenile mental health courts and community mental health services, and should look to expand juvenile mental health courts to counties across Texas.

Adequate funding will also ensure that juvenile mental health courts are properly staffed. Because juvenile mental health courts across the state have reported limited funding and shortages in adolescent psychologists, county/city providers should partner with non-profit and/or private community-based mental health services to expand services to children and their families. CHIP and Medicaid reimbursement rates should also be increased for service providers.

4. Continue development of community-based treatment options for mental illness and substance abuse
Traditional ideas and images of treating mental illness involve a patient going to a psychiatrist or other mental health professional to receive treatment. The patient is isolated from the rest of society so that his mental health issues can be appropriately dealt with. He may then be released back into society as a “normal” person. More recently, mental health professionals have come to see this traditional “clinical” approach as being ineffective at treating the various triggers for mental illness, which are often related to environmental factors in the home or community.

In speaking with mental health professionals, it is suggested that mental illness must be understood in the context of environmental factors. Patients cannot be effectively treated unless environmental triggers for their problems, such as family or neighborhood issues, are also addressed. Even ‘normal’ people will exhibit symptoms of mental illness when exposed to chronic stresses of poverty and violence. In these cases, removing the trigger
may be the more effective way to treat the illness.

Mental health professionals have also noted that effective treatment of mental illness requires a desire on the part of the patient to want treatment. Being classified as having a mental illness creates a stigma for many patients. For this reason, programs should focus on aiding patients to identify their own problems. Once these are identified, a juvenile-patient will be much more likely to undergo treatment because they can take ownership of a treatment plan – rather than having one imposed on them. The voluntary nature of juvenile mental health courts and special needs diversionary programs reflects this concern where juveniles have incentives to take control of their own treatment.

Brain chemistry is the fundamental driver for mental illness.\textsuperscript{452} This intuitively allows one to see why substance abuse and mental illness are frequently co-occurring. An illness such as depression might drive a juvenile to seek alcohol or other drugs in an effort to feel better. Similarly, experimentation with alcohol and other substances can alter the brain chemistry in a previously normal juvenile and lead to the onset of mental health problems.\textsuperscript{453} Community-based programs such as wrap-around programs recognize that substance abuse and mental illness are often two sides of the same coin, and professionals can effectively treat a juvenile when they can craft a plan that addresses the whole problem.

\textbf{5. Increase access to clear and easily accessible information for youth, parents, and communities}

Ensuring that individuals in communities are aware of resources available for youth and families struggling with mental health issues is essential in lowering the number of youth who enter the juvenile justice system. It is also imperative that communities be made aware of the rationale behind the creation of specialized dockets and the type of work done there. Since many of these types of courts depend on grants, it is important that there is a level of understanding and support from communities. The following information should be made accessible:

- Available mental health services/resources in the community,
- Specialized courts or dockets, and
- Public insurance programs such as Medicaid that cover mental health, who may be qualified and information on how to apply.

\textbf{6. Ensure that youth who take medication for mental illness are provided with all necessary medication during incarceration as well as upon release from incarceration}

When a youth with mental health issues requiring medication is incarcerated and deprived of medication, it is possible that subsequent delinquent behavior, potentially resulting in harm to the youth, staff or property may result. The incident may be permanently recorded, follow the youth throughout their life and could create more of a financial burden on
taxpayers. During incarceration, it is essential that:
• Any deprivation of medication is done in accordance with safe practice under the direct supervision of medical staff, and
• An onsite physician/qualified mental health provider make the final determination as to the provision or deprivation of medication for youth.

To facilitate these needs, it is imperative that juvenile mental health provider positions in detention facilities are fully staffed. Furthermore, it is important that those who work directly with juveniles have appropriate training to recognize and respond to juveniles with mental health problems. The state and counties should ensure that:
• Police officers across the state have access to specific training on mental health and juveniles,
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Upon release from incarceration, it is equally important to ensure that a continuum of mental health services is provided to the youth to help prevent relapse into delinquent behavior. In addition to treatment from therapists and medical professionals, a key component of this continuum is continued access to necessary medications. It is important to make sure that health coverage enrollment assistance is provided prior to the juvenile’s release so that medication costs will not be an impediment to continued treatment in the community.

Finally, it is important that in the future, accurate and meaningful information about the state of juvenile mental health needs and available programming be available. To meet this need, the State of Texas should:
• Study JMHCs and other juvenile mental health programs in detention facilities and probation departments for efficacy including:
  – program completion,
  – recidivism,
  – the gender, race and age of participants,
  – income level of families,
  – rates of access to medical coverage/insurance, and
  – cost per participant.
The Texas juvenile justice system is not perfect. However, this report illustrates that the current state of the system is improving. The Legislature has taken important steps during the 82nd Texas Legislative Session to continue the reform efforts of the 80th and 81st Legislatures, respectively. The abolishment of the Texas Youth Commission and the Texas Juvenile Probation Commission and the creation of the TJJD is a significant step in the right direction for juveniles in Texas.

Additionally, there has been an increased awareness and response to the mental health needs of juveniles across the state. With the help of numerous public policy organizations and lawmakers alike, Texas has become a forerunner in addressing the juvenile mental health needs in recent years. Despite these great strides made with the creation of mental health courts and special needs diversionary programs however, there still remains a wide gap in those juveniles with mental health disorders that remain undiagnosed and/or untreated in the juvenile justice system.

Finally, the Texas Juvenile Probation Commission’s statistical reports indicate a significant discrepancy in the demographic breakdown of juveniles certified to stand trial as adults. The data reveal a disproportionate number of African American juveniles are certified for similar offenses than their Anglo counterparts. Additionally, the statistics reveal a higher number of juveniles certified for robbery despite the fact there are more sexual assaults committed on average each year. These findings are significant given that the consequences of certification for the youth are substantial – including incarceration in an adult prison or state jail facility.

CHILDREN AT RISK will continue to monitor the reform measures implemented as a result of the 82nd Texas Legislative Session. It is vital to continue to stress the importance of community-based services and to make these services available to children throughout the state. If we invest in providing our children with the preventive educational, developmental, and mental health services they deserve, we can help ensure that fewer youth will enter the juvenile justice system.
SUMMARY OF POLICY RECOMMENDATIONS

I. TEXAS JUVENILE JUSTICE DEPARTMENT

1. Increase funding for diversionary programs
As TJJD continues to take shape, it is strongly recommended that the Legislature provide more funding to diversionary programs, such as the Grant C Program. It is recommended that the Legislature provide additional funding to TJJD for rehabilitation and reentry services for juveniles coming from TYC. The 82nd Legislature appropriated nearly $39 million toward these programs, which is a drop of close to $20 million from the 81st Session (2009).

This merger can benefit the juvenile justice system in Texas if the Legislature is willing to provide the necessary funding. As Dr. William Bush noted in his op-ed piece in the Austin American Statesman, “the Legislature and/or citizens must be willing to invest the necessary resources should the cost increase in the short term to equip local agencies to provide the quality services that will be needed to steer at-risk youth in the right direction.”\(^{454}\) If the Legislature is unwilling to provide this necessary funding, it is very difficult to foresee the reform efforts of the previous legislative sessions continuing, which would be extremely detrimental to juveniles across Texas.

2. Emphasis on oversight of the new Texas Juvenile Justice Department
In addition, it is important to continue to have oversight of the department. The current oversight within SB 653 is a step in the right direction to prevent the incidents of previous years from reoccurring. It is also important that the Legislature continue to keep an eye focused on the new department to ensure that the institutional focus of TYC does not overtake the community-based focus of TJPC, a concern of many within the juvenile probation community. The Legislature should not be so focused on making sure that the department succeeds that they fail to admit or overlook problems within the new department.

Much about the TJJD is unknown at the current time; however it is the hope that the new department will continue the trends of the previous four years. It is important for the juvenile justice system in Texas that the new department continues to bring down the number of referrals and commitments to TYC. Equally as important, is the hope that the merger will continue to make juvenile justice reform a “shared responsibility.”\(^{455}\) With this “shared responsibility” comes many challenges, but the merger of TYC and TJPC is another step in the right direction to achieving the goal of completely reforming the juvenile justice system in Texas.
II. ADULT CERTIFICATION

1. New location for the Youthful Offender Program
The Giddings facility of TYC attributes a large portion of its success to the location and layout of the facility. Although the facility is secured, the facility is set up like a school campus with dormitories, a chapel, and a cafeteria all surrounding the educational buildings. The juveniles are referred to as “students” and the youth are required to attend school allowing the emphasis to be placed on education and rehabilitation. The Youthful Offender Program should be removed from within the adult prison and relocated to a separate facility. This will allow the juveniles to focus on education and rehabilitation in addition to removing the threat of physical and sexual abuse from older inmates.

2. Fewer certifications, more determinate sentences
The Texas Youth Commission provides a vast array of specialized treatment programs that provide juveniles with the individualized care needed to foster successful rehabilitation. The rehabilitative limitations of the YOP suggest a strong preference for juveniles to be given a determinate sentence as an alternative to adult certification. With this approach, the juvenile will have access to the rehabilitative programs available in TYC, with the possibility of transfer to the adult system if the juvenile proves to be unamenable or uncooperative. The threat of ultimate incarceration at TDCJ will encourage the juveniles to work towards successful rehabilitation.

3. Statewide standard for adult certification
The statewide statistics regarding adult certification reveal inconsistencies in the number of juveniles certified by county, severity of the offense, and ethnicity of the offender. These statistics signify a need for a statewide standard that provides a more detailed format than the factors listed in the Texas Family Code. A weighted system would allow prosecutors to more appropriately evaluate each juvenile based on a number of variables far more expansive than those of the Family Code. The weighted system would provide each variable with a certain value requiring prosecutors to reach a certain number of points before pursuing adult certification.

III. JUVENILE MENTAL HEALTH

1. Evaluate the progress of the Dallas Juvenile Mental Health Court
The Dallas Juvenile Mental Health Court program began in July 2011. Comprehensive program data, such as recidivism, is therefore not yet available. In order to ensure that the program continues successfully in the long-term, it is important to monitor the successes and challenges in the short-term. Juvenile mental health courts are tailored according to the individual needs of the particular county, and by regular evaluation
of program outcomes, the Dallas Juvenile Mental Health Court can be successfully tailored into a sustainable program.

2. Create a Juvenile Mental Health Court in Tarrant County and other large counties in Texas
The recent creation of a juvenile mental health docket in Dallas County is an exciting development for the Dallas/Fort Worth Metroplex. However, Dallas County contains less than one-third of the total population of the DFW Metroplex. Unlike the Harris County JMHC, which can potentially serve two-thirds of Greater Houston, the Dallas JMHC will be limited by its county jurisdiction. To ensure that juveniles in the Metroplex have similar opportunities as juveniles elsewhere in Texas, a juvenile mental health docket should be opened in Tarrant County. Tarrant County is the third most populous county in Texas and is roughly three times the size of the next smallest county in Texas that does not currently feature a juvenile mental health docket.

A juvenile mental health docket in Tarrant County would not require large amounts of additional resources. We have seen from the Crossroads model in Ohio that mental health issues and substance abuse problems can effectively be dealt with in one court. Officials at Crossroads Ohio argue that, because mental health and substance abuse problems co-occur frequently, it is best to look at mental health and substance abuse as part of one broader issue. Tarrant County already features a juvenile drug court that recognizes that youth confronting substance abuse problems already have other issues in their lives. The court could accept youth with mental health diagnoses who have not necessarily had substance abuse issues. This would ensure that youth with mental health problems who have not abused drugs or alcohol would have a chance at effective mental health treatment without the stigma of a permanent record.

In addition to Tarrant County, juvenile mental health courts should be expanded to other highly populated counties in Texas, such as Hidalgo, Fort Bend and Montgomery Counties. Existing juvenile mental health courts can serve as a blueprint to establishing courts in these counties, and the court program can then be tailored according to the particular county’s needs and resources available.

3. Provide adequate funding for mental health services and juvenile mental health courts
Without adequate funding, children suffering from mental illness will not have access to the quality care they need and will continue to cycle through the juvenile justice system. By underfunding our mental health services our emergency rooms, juvenile justice system, and other taxpayer-funded programs will continue to bear the brunt of the costs. County mental health departments should advocate for and provide mental health services for juvenile mental health courts. County juvenile probation departments should explore a variety of funding sources in addition to reallocation of
existing resources to implement juvenile mental health courts in their jurisdiction. The State of Texas should, at a minimum, sustain current funding levels for juvenile mental health courts and community mental health services, and should look to expand juvenile mental health courts to counties across Texas.

Adequate funding will also ensure that juvenile mental health courts are properly staffed. Because juvenile mental health courts across the state have reported limited funding and shortages in adolescent psychologists, county/city providers should partner with non-profit and/or private community-based mental health services to expand services to children and their families. CHIP and Medicaid reimbursement rates should also be increased for service providers.

4. Continue development of community-based treatment options for mental illness and substance abuse

Traditional ideas and images of treating mental illness involve a patient going to a psychiatrist or other mental health professional to receive treatment. The patient is isolated from the rest of society so that his mental health issues can be appropriately dealt with. He may then be released back into society as a “normal” person. More recently, mental health professionals have come to see this traditional “clinical” approach as being ineffective at treating the various triggers for mental illness, which are often related to environmental factors in the home or community.

In speaking with mental health professionals, it is suggested that mental illness must be understood in the context of environmental factors. Patients cannot be effectively treated unless environmental triggers for their problems, such as family or neighborhood issues, are also addressed. Even “normal” people will exhibit symptoms of mental illness when exposed to chronic stresses of poverty and violence. In these cases, removing the trigger may be the more effective way to treat the illness.

Mental health professionals have also noted that effective treatment of mental illness requires a desire on the part of the patient to want treatment. Being classified as having a mental illness creates a stigma for many patients. For this reason, programs should focus on aiding patients to identify their own problems. Once these are identified, a juvenile-patient will be much more likely to undergo treatment because they can take ownership of a treatment plan—rather than having one imposed on them. The voluntary nature of juvenile mental health courts and special needs diversionary programs reflects this concern where juveniles have incentives to take control of their own treatment.

Brain chemistry is the fundamental driver for mental illness. This intuitively allows one to see why substance abuse and mental illness are frequently co-occurring. An illness such as depression might drive a juvenile to seek alcohol or other drugs in an effort to feel better. Similarly, experimentation with alcohol and other substances can alter the brain
chemistry in a previously normal juvenile and lead to the onset of mental health problems. Community-based programs such as wrap-around programs recognize that substance abuse and mental illness are often two sides of the same coin, and professionals can effectively treat a juvenile when they can craft a plan that addresses the whole problem.

5. Increase access to clear and easily accessible information for youth, parents, and communities
Ensuring that individuals in communities are aware of resources available for youth and families struggling with mental health issues is essential in lowering the number of youth who enter the juvenile justice system. It is also imperative that communities be made aware of the rationale behind the creation of specialized dockets and the type of work done there. Since many of these types of courts depend on grants, it is important that there is a level of understanding and support from communities. The following information should be made accessible:

- Available mental health services/resources in the community,
- Specialized courts or dockets, and
- Public insurance programs such as Medicaid that cover mental health, who may be qualified and information on how to apply.

6. Ensure that youth who take medication for mental illness are provided with all necessary medication during incarceration as well as upon release from incarceration
When a youth with mental health issues requiring medication is incarcerated and deprived of medication, it is possible that subsequent delinquent behavior, potentially resulting in harm to the youth, staff or property may result. The incident may be permanently recorded, follow the youth throughout their life and could create more of a financial burden on taxpayers. During incarceration, it is essential that:

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To facilitate these needs, it is imperative that juvenile mental health provider positions in detention facilities are fully staffed. Furthermore, it is important that those who work directly with juveniles have appropriate training to recognize and respond to juveniles with mental health problems. The state and counties should ensure that:

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Finally, it is important that in the future, accurate and meaningful information about the state of juvenile mental health needs and available programming be available. To meet this need, the State of Texas should:

• Study JMHCs and other juvenile mental health programs in detention facilities and probation departments for efficacy including:
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The juvenile justice system involves children between the ages of ten and seventeen. This publication will occasionally use the term “child” in place of “juvenile,” but no distinction should be made between the two.

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4 Lorentz, supra note 2 at 381.

5 A Brief History of the Texas Youth Commission, Texas Youth Commission (Dec. 30, 2010), http://www.tyc.state.tx.us/about/history.html (last visited Nov. 9, 2011).

6 Id.

7 Id.

8 Id.

9 Id.

10 Id.

11 Id.

12 Id.

13 Id.

14 Id.


16 Id.


18 This publication will not go into all of the different nuances between the adult system and the juvenile system, but will try to highlight some important distinctions. It should be noted that juveniles cannot be held responsible for certain adult offenses below a certain age. A juvenile can only be charged with prostitution when she has reached the age of fourteen, for example. Punishments may also vary, and juveniles cannot be given the death penalty under any circumstances.

19 Texas, joined by only Oklahoma, has two courts of last resort and divides civil and criminal cases between these courts. Juvenile cases are considered ‘quasi-criminal,’ but ultimately fall under the civil umbrella and the jurisdiction of the Texas Supreme Court.


21 A Brief History of the Texas Youth Commission, supra note 5.


25 TYC fiscal year is Sept. 1 of the prior year to Aug. 31 of the current year. For example FY2008 encompasses Sept. 1, 2007 to Aug. 31, 2008.


27 Interview with Tom Brooks, Executive Director of Harris County Juvenile Probation Department (Jul. 13, 2011).

Juveniles that are seventeen or older are admissible to TYC so long as the offense was committed before their 17th birthday and they have not reached the age of nineteen.

From Aug. 2010 to date five TYC facilities have been closed for various reasons. On Aug. 31, 2010 the Victory Field Correctional Academy and West Texas State School were ordered closed by the state Legislature. Additionally, due to continuing smaller commitment numbers and budget constraints three more facilities were closed by the 82nd Legislature: Crocket, Al Price and Ron Jackson Correctional Complex Unit II. With the continued decline in juvenile commitments since the 80th Legislature’s passage of SB103 many officials in TYC have expressed optimism of the need for fewer institutional beds.


See Annual Treatment Effectiveness Review 2010, supra note 57.
Interview with Andy Wier, Community Relations Coordinator - Giddings State School, Texas Youth Commission in Giddings, TX (Jun. 7, 2011).


See Annual Treatment Effectiveness Review, supra note 57.

Texas Youth Commission Regional Services Map 2010, supra note 54.

See Annual Treatment Effectiveness Review 2010, supra note 57.

See S.B. 103, supra note 24.


See S.B. 103, supra note 24.


Id.

Id.

Id.

Id.

Id.

Id.; The Special Prosecution Unit was established by the 80th Legislature in S.B. 103 to assist district attorney offices on the criminal prosecution of crimes committed in TYC facilities and by TYC staff.

Id.

Id.

Id.

Id.

Id.

Id.


Id.

Id.

Id.

Id.


Id.

Id.

Id.

Id.


Id.; The complete list of changes implemented by Mr. Kimbrough may be found here.

Id.


See S.B. 103, supra note 24.

Id.

Id.

Id.

Id.


Id.

Final Report, TEXAS SUNSET ADVISORY COMMISSION (Jul. 2009), http://www.sunset.state.tx.us/81streports/tyc/tyc_fr.pdf (last visited Nov. 9, 2011). Among the other recommendations were to: establish a community corrections pilot program that encourages counties to keep lower-risk offenders eligible for commitment to TYC in their home communities and out of state confinement; appropriate funding to establish community corrections pilot programs; consolidate existing community corrections funding for probation departments; consider past performances in awarding future community corrections grants or pilot program grants; require the Department to establish basic probation and community corrections funding formulas; require the Department to give juvenile courts access to information on youth progress at TYC; require the Department to adopt a memorandum of understanding for continuity of care for juvenile offenders with mental impairments; and require the new agency to develop a comprehensive five-year Juvenile Justice Improvement Plan to better integrate state and county juvenile justice functions.

Id.

Id.


Id.


Id.; TEX. HUM. RES. CODE ANN. § 141.081 (West 2011) (regarding annual funding for financial assistance to juvenile boards around the state).

H.B. 3689, supra note 118; TEX. HUM. RES. CODE ANN. § 61.08131 (West 2011) (regarding reentry and reintegration plan for children; study and report).

H.B. 3689, supra note 118; TEX. HUM. RES. CODE ANN. § 141.042 (West 2011) (regarding rules for juvenile boards, probation departments, probation officers, programs, and facilities).

H.B. 3689, supra note 118; TEX. EDUC. CODE ANN. § 30.106 (West 2011) (regarding the comprehensive plan of the TYC to improve reading skills and behavior students in the commission educational program).


See id.

See id.


Mike Ward, Leaders Seek 10 Percent Cuts for the Next Biennium, AUSTIN AMERICAN
128 See S.B. 653, supra note 126.
129 See id.
130 See id.
131 See id.
132 See id.
133 See id.
134 See id.
135 See id.
136 See id.
137 See id.
138 See id.
140 Id.
141 See S.B. 653, supra note 126.
142 See id.
143 See id.
144 See id.
145 See id.
146 See id.
147 See id.
148 See id.
149 See id.
150 See id.
151 See id.
152 See id.
158 Id. at 7.
161 Tex. Fam. Code Ann. §54.02 (West 2010).
163 Michele Deitch, Juveniles in the Adult Criminal Justice System in Texas at 6-8, THE UNIV. OF TEX. AT AUSTIN, LBJ SCHOOL OF PUBLIC AFFAIRS (2011); The State of Juvenile Probation Activity in Texas: Calendar Year 2008 at 15 TEXAS JUVENILE PROBATION COMMISSION (Jul. 2010), http://www.tjpc.state.tx.us/publications/default.aspx#Annual%20Reports (last
visited Nov. 9, 2011).


165 Tex. Fam. Code Ann. §51.02(2) (West 2010).

166 Id.


168 *See Growing Up in Houston*, supra note 164.


171 Tex. Penal Code Ann. § 16.01(a)(2), (c).

172 Tex. Penal Code Ann. § 19.05.


175 Tex. Fam. Code Ann. §54.02(m) (West 2010).

176 *See Growing Up in Houston*, supra note 164.

177 Interview with Bill Thursland, Houston Defense Attorney (July 8, 2011).

178 Tex. Fam. Code Ann. §54.02(f) (West 2010).


181 *Rehabilitation Programs Division, Texas Department of Criminal Justice*, http://www.tdcj.state.tx.us/mediasvc/divisions/rpd/rpd_courage.html (last visited Nov. 8, 2011).

182 *See Deitch*, supra note 163.

183 Id.

184 Id.


186 Id.

187 Interview with Stan DeGerolami, Giddings State School Superintendent (Jun. 29, 2011).

188 Id.

189 Id.

190 Id.

191 Id.

192 Id.

193 Id.

194 Id.

195 Id.

196 Id.


198 Id.

199 See Interview with Stan DeGerolami, supra note 187.


201 Id.


203 Id.

204 Id.

205 Id.


207 Id.

208 Id.

209 Id.

210 Id.
See id.

See id.

See id.

See id.

See id.

See id.


See Statewide Summary 2010, supra note 206.

See id.

See id.

See id.

Interview with Stan DeGerolami, supra note 187.

Id.

Id.


See Statewide Summary 2010, supra note 206.

See id.

The State of Juvenile Probation Activity in Texas, supra note 163 at 17. The data regarding the ethnic background of the juvenile is only available through 2008.

Id. at 16.

Deitch, supra note 163 at 12.

Id.

Id.

See id.

Id.

Id.


See id.

See id.

See id.

See id.

See Statewide Summary 2010, supra note 206.

See id.

See id.

See id.


See Statewide Summary 2010, supra note 206.

See id.

See id.

See id.

See id.

Tex. Fam. Code Ann. §54.02(f) (West 2010).

Id.

Id.; See also Deitch, supra note 163.

Interview with Stacy Rhodes, Program Supervisor, Youthful Offenders Program, Texas Department of Criminal Justice (Jul. 7, 2011).

Id.

Id.

Interview with Stacy Rhodes, supra note 256.

Interview with Stan DeGerolami, supra note 187.


Interview with Stan DeGerolami, supra note 187.

Interview with Andy Wier, supra note 62.
308 Id.
310 Id.
311 Id.
312 Giddings State School: Academic and Career Technology Programs, supra note 58.
313 Giddings State School: Specialized Treatment Programs, supra note 301.
315 Id.
316 Id.
317 Id.
318 Interview with Andy Wier, supra note 62.
319 Giddings State School, supra note 302.
320 Id.
321 Interview with Stan DeGerolami, supra note 187.
322 Interview with Andy Wier, supra note 62.
323 Id.
324 Id.
325 Id.
326 Id.
327 Id.
328 Id.
329 Id.
330 Brochure, Harris County Systems of Hope, 2011.
334 Id.
335 Id.
336 Children’s Global Assessment Scale (C-GAS), The Washington State Mental Health Division, http://depts.washington.edu/washinst/Resources/CGAS/CGAS%20Index.htm (last visited Nov. 9, 2011). The test is also known as the Global Assessment of Functioning when given to adults, and many children’s facilities use this term for the test. The indications on numeric scales for the CGAS and GAF are essentially the same.
337 Id.
338 Id.
339 Id.
341 Id.
342 Stacy Rhodes, Program Supervisor, Youthful Offenders Program, Texas Department of Criminal Justice, Address at the Juvenile Justice Continuing Legal Education Program in Houston, TX (Jun. 14, 2011).
343 Id.
344 Id.
345 Id.
346 Id.
347 Interview with Mark Holmes, Associate Psychologist, Youthful Offenders Program, Clemens Unit, Texas Department of Criminal Justice (Jul. 7, 2011).
348 Id.


Id.


Id. at 47.

Public Information Request to Jennifer Martin, Administrative Assistant, Texas Youth Commission (Jun. 29, 2011).

Makany-Rivera, supra note 353 at 48.

The following account was based on personal observations of the Harris County Juvenile Mental Court by CHILDREN AT RISK staff (Jul. 19, 2011).

Interview with Dr. Olivia D. McGill, Ph.D., Mental Health Court Clinician - Harris County Juvenile Mental Health Court (Jul. 19, 2011).

Judge Mike Schneider, 315th District Court, Judge Schneider Starts County’s First Juvenile Drug Court (Jul. 15, 2010), http://www.mikeschneider.org/news.html (last visited Nov. 10, 2011).

Id.

Id.

Id.

Telephone Interview with Kelly Baron, Probation Officer, Harris County Juvenile Drug Court (part of 315th District Court) (Jul. 11, 2011).

Id.

Id.


Interview with Mike Meade, Chief Probation Officer, Fort Bend County Juvenile Probation Department, in Richmond, TX (Jul. 21, 2011).

Id.

Id.

Id.

2010 Annual Report, Fort Bend County Juvenile Probation Department (2010).

Id. at 41.


James Smith, Director of Services, Texas Youth Commission, Address at the Juvenile Justice Continuing Legal Education Program in Austin, TX (Jun. 15, 2011).

Ron Jackson State Juvenile Correction Complex, supra note 374.

Id.

Id.

Telephone Interview with Clinical Department, Ron Jackson State Juvenile Correctional Complex Unit I, Texas Youth Commission (Jul. 18, 2011).

Id.

Id.


Diane Boyd, Supervisor, Dallas County Juvenile Department, Address at the Juvenile Justice Continuing Legal Education Program in Dallas, TX (Jun. 21, 2011).
Sanborn et al., supra note 382.


Interview with Cynthia J. Wallace, Program/Training Manager, DALLAS COUNTY JUVENILE DEPARTMENT, in Dallas, TX (Jun. 21, 2011).


Public Information Request to Dana Colbert, Public Information Coordinator, TEXAS YOUTH COMMISSION (Aug. 1, 2011).

At the time of publication, additional requested information regarding the Corsicana Residential Treatment Center has not been provided by the Texas Youth Commission.

The “S” on the program does not stand for anything.


Interview with Andy Wier, supra note 62.

The concern was expressed by a student who helped with the tour who had embraced the Giddings program.


Telephone Interview with Javier Aguilar, HIDALGO COUNTY JUVENILE PROBATION DEPARTMENT (Aug. 1, 2011).

Telephone Interview with Javier Aguilar, HIDALGO COUNTY JUVENILE PROBATION DEPARTMENT (Jun. 3, 2011).

Makany-Rivera, supra note 353 at 6.

Expanding Juvenile Mental Health Courts in the Children’s System of Care at 1, CALIFORNIA DEPARTMENT OF MENTAL HEALTH, http://www.dmh.ca.gov/mental_health_
planning_council/docs/JMHCPaper.pdf (last visited Nov. 10, 2011).

Id. at 3-4.


Id.

Id.

Id.

Id.


Id.

Id.

Id.

Id.

Hereafter referred to as Alameda JMHC.


Id.

Id.

Id.

Id.

Id.

Id.

Id.

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Id.

Id.

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Id.

Id.

Interview with Lisa Moore, supra note 441.

Id.

Id.

Id.

Id.

Interview with Lisa Moore, supra note 441.

Id.

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Interview with Lisa Moore, supra note 441.

Id.

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Interview with Lisa Moore, supra note 441.

Id.

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Interview with Lisa Moore, supra note 441.

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Interview with Lisa Moore, supra note 441.

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Interview with Lisa Moore, supra note 441.

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Interview with Lisa Moore, supra note 441.

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Interview with Lisa Moore, supra note 441.

Id.

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Id.

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Interview with Lisa Moore, supra note 441.

Id.

Id.

Id.

Id.

Interview with Lisa Moore, supra note 441.

Id.

Id.

Id.

Id.